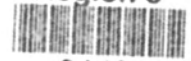


108-025-08 ENFORCEMENT ACTION FILES
207b UIC - EAST POPLAR OIL FIELD ENFORCEMEN
SDWA SEC. 1431
Folder ID 64426 1988 Privileged

Region 8



64426

Mr. Grace - Archived

Mr. Grace - Attached

108-025-08 ENFORCEMENT ACTION FILES
207b UIC - EAST POPLAR OIL FIELD ENFORCEMEN
SDWA SEC. 1431
Folder ID 64426 1988 Privileged

DEPARTMENT OF JUSTICE

OFFICE
BOARD
DIVISION

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FILE

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6-30-87

90-5-1-1-2383
Sec 4

90-5-1-1-2383-GEN-4

U.S. V GRACE PETROLEUM CORPORATION, A
SUBSIDIARY OF W.R. GRACE & COMPANY

EE From 6/30/1987



DQJ

ES

FORM OBD-155
SEP. 85

W-5-1-1-2383
Sec 1



3/7/88

Donohue, B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

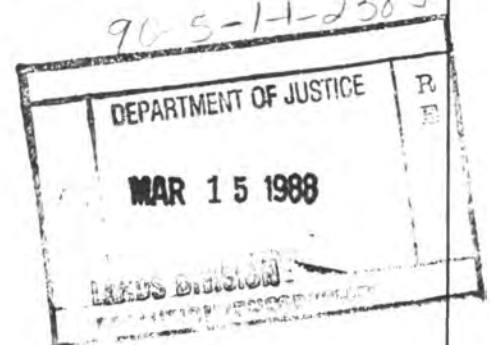
GRACE PETROLEUM CORPORATION,

Defendant.

No. CV-86-03-GF-PGH

STIPULATION FOR DISMISSAL

The parties, through their respective counsel, stipulate and agree that the above-entitled action be dismissed with prejudice, as fully settled upon the payment by the defendant of \$55,300.00 in the form of a cashier's check made payable to "Treasurer, United States of America", delivered to the office of the United States Attorney for the District of Montana, P. O. Box 1478, Billings, Montana 59103.

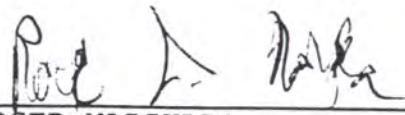


1 The parties further stipulate and agree that the set-
2 tlement and dismissal of this action does not constitute an ad-
3 judication, or any evidence of admission by any party, with re-
4 spect to any issue of fact or law in the action.

5 The parties further stipulate and agree that the fil-
6 ing of the complaint in this action, the alleged violations
7 which are the subject of the complaint, the amount of the set-
8 tlement in this action, and the fact that this settlement was
9 entered into, will not be used by the United States Environmen-
10 tal Protection Agency in any subsequent administrative or civil
11 judicial proceeding in the calculation, determination, or as-
12 sessment of any penalties against Grace Petroleum Corporation,
13 its affiliated corporations, their agents or employees, unless
14 such subsequent action arises out of operations at the Buck Elk
15 No. 2, Goings Government No. 1, or EPU No. 110-XD underground
16 injection wells.

17
18 UNITED STATES OF AMERICA:

19 Dated MAR 7 1988

20 
21 ROGER MARZULLA
22 Acting Assistant Attorney
23 General
24 Land and Natural Resources
25 Division
U. S. Department of Justice
Washington, D.C. 20530

1 Dated

3/9/88

George F. Dunbar
BRYAN F. DUNBAR

United States Attorney
District of Montana
P. O. Box 1478
Billings, Montana 59103

5 Dated

Thomas L. Adams, Jr.
THOMAS L. ADAMS, JR.

Assistant Administrator for
Enforcement and Compliance
Monitoring
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

10 Dated

12/16/87

Alfred C. Smith
ALFRED SMITH

Assistant Regional Counsel
Office of Regional Counsel
Region VIII
Environmental Protection Agency
One Denver Place - Suite 1300
999 - 18th Street
Denver, Colorado 80202

16 Dated

2/17/89

Brian G. Donohue
BRIAN G. DONOHUE

Attorney
Environmental Enforcement
Section
Land & Natural Resources
Division
U. S. Department of Justice
Washington, D.C. 20530

The Above Attorneys and Duly
Authorized Representatives for
Plaintiff

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CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

Dated 12/10/87

By Jack Ramsey
P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant



U.S. Department of Justice

FILE

90-5-1-1-2383
DTB:BGD:rab

Washington, D.C. 20530

March 7, 1988

George Darragh
Assistant United States Attorney
District of Montana
Room 212, Federal Building
215 1st Avenue, North
Great Falls, Montana 59401

Re: United States v. Grace Petroleum Corporation,
Civil Action No. CV-86-03-GF-PGH

Dear George:

Enclosed please find the Stipulation of Dismissal in the above-captioned matter. It would be appreciated if you would review the stipulation, obtain the necessary signature, and lodge the stipulation with the Court. Pursuant to 28 C.F.R. §50.7, the stipulation must be lodged with the Court prior to entry to allow for publication in the Federal Register.

It would be appreciated if you would inform me when the stipulation is lodged so that I can have the Federal Register notice published.

Thank you for your continued assistance in this matter.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: 

Brian G. Donohue
Senior Attorney
Environmental Enforcement Section

cc: Al Smith
Alan Morrissey
Jack Ramirez

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,)

No. CV-86-03-GF-PGH

13 Plaintiff,)

14 vs.)

STIPULATION FOR DISMISSAL

15 GRACE PETROLEUM CORPORATION,)

16 Defendant.)


17
18 The parties, through their respective counsel, stipu-
19 late and agree that the above-entitled action be dismissed with
20 prejudice, as fully settled upon the payment by the defendant of
21 \$55,300.00 in the form of a cashier's check made payable to
22 "Treasurer, United States of America", delivered to the office
23 of the United States Attorney for the District of Montana, P. O.
24 Box 1478, Billings, Montana 59103.
25

1 The parties further stipulate and agree that the set-
2 tlement and dismissal of this action does not constitute an ad-
3 judication, or any evidence of admission by any party, with re-
4 spect to any issue of fact or law in the action.

5 The parties further stipulate and agree that the fil-
6 ing of the complaint in this action, the alleged violations
7 which are the subject of the complaint, the amount of the set-
8 tlement in this action, and the fact that this settlement was
9 entered into, will not be used by the United States Environmen-
10 tal Protection Agency in any subsequent administrative or civil
11 judicial proceeding in the calculation, determination, or as-
12 sessment of any penalties against Grace Petroleum Corporation,
13 its affiliated corporations, their agents or employees, unless
14 such subsequent action arises out of operations at the Buck Elk
15 No. 2, Goings Government No. 1, or EPU No. 110-XD underground
16 injection wells.

17
18 UNITED STATES OF AMERICA:

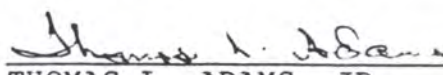
19 Dated MAR 7 1988


20 ROGER MARZULLA
21 Acting Assistant Attorney
22 General
23 Land and Natural Resources
24 Division
25 U. S. Department of Justice
Washington, D.C. 20530

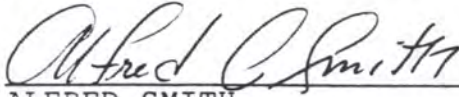
1 Dated _____

BRYAN H. DUNBAR
United States Attorney
District of Montana
P. O. Box 1478
Billings, Montana 59103

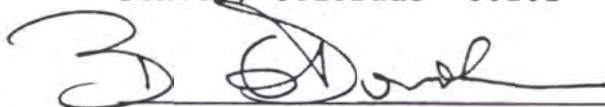
5 Dated _____


THOMAS L. ADAMS, JR.
Assistant Administrator for
Enforcement and Compliance
Monitoring
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

10 Dated 12/16/87


ALFRED SMITH
Assistant Regional Counsel
Office of Regional Counsel
Region VIII
Environmental Protection Agency
One Denver Place - Suite 1300
999 - 18th Street
Denver, Colorado 80202

16 Dated 2/17/88


BRIAN G. DONOHUE
Attorney
Environmental Enforcement
Section
Land & Natural Resources
Division
U. S. Department of Justice
Washington, D.C. 20530

The Above Attorneys and Duly
Authorized Representatives for
Plaintiff

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CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

Dated 12/10/87

By Jack Ramsey
P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

Memorandum



FILE

90-5-~~1~~-1-2383

Subject

Request for Certification of a
Notice to be Published in the
Federal Register

Date

MAR 7 1988

To

Charles J. Cooper
Assistant Attorney General
Office of Legal Counsel

From

Roger J. Marzulla
Acting Assistant Attorney
General
Land and Natural Resources
Division

Attached is a notice that a proposed Stipulation for Dismissal in United States v. Grace Petroleum Corporation, Civil Action No. CV-86-03-GF-PGH, an action brought under the Safe Drinking Water Act for civil penalties and injunctive relief, has been lodged with the United States District Court for the District of Montana, Great Falls Division.

Please certify the notice and forward it to the Federal Register for publication.

Attachment

NOTICE OF STIPULATION FOR DISMISSAL
PURSUANT TO THE SAFE DRINKING ACT

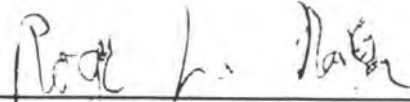
In accordance with Departmental Policy, 28 C.F.R. §50.7, 38 Fed. Reg. 19029, notice is hereby given that a Stipulation for Dismissal in United States v. Grace Petroleum Corporation, Civil Action No. CV-86-03-GF-PGH, was lodged with the United States District Court for the District of Montana, Great Falls Division, on March 10, 1988. The complaint in this action alleged that the defendant continued to operate a brine disposal injection well after it had lost authorization to do so in violation of the Safe Drinking Water Act, 42 U.S.C. §300h-2(b)(1) and the regulations promulgated thereunder. By the Stipulation for Dismissal, the defendant agrees to pay the amount of \$55,300 in settlement of this matter.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments related to the Stipulation for Dismissal. Comments should be addressed to the Assistant Attorney General, Washington, D.C. 20530 and should refer to United States v. Grace Petroleum Corporation, D.J. Ref. No. 90-5-1-1-2383.

The Stipulation for Dismissal may be examined at the Office of the United States Attorney, District of Montana, 5043 Federal Building, 26th Street & 3rd Avenue, Billings, Montana 59103; at the Region VIII office of the Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202; and the Environmental Enforcement Section, Land and Natural Resources

Division, Room 1515, Ninth Street and Pennsylvania Avenue, N.W.,
Washington, D.C. 20530.

A copy of the Stipulation for Dismissal may be obtained
in person or by mail from the Environmental Enforcement Section,
Land and Natural Resources Division of the Department of Justice.

A handwritten signature in dark ink, appearing to read "Roger J. Marzulla", is written over a horizontal line.

ROGER J. MARZULLA
Acting Assistant Attorney General
Land and Natural Resources Division



90-5-1-1-2383
DTB:BGD:rab

FILE

Washington, D.C. 20530

February 25, 1988

Honorable Paul G. Hatfield
United States District Judge
District of Montana
Great Falls Division
P.O. Box 2186
Great Falls, Montana

Re: United States v. Grace Petroleum Corporation,
Civil No. CV-86-003-GF

Dear Judge Hatfield:

The above-captioned matter is an action brought by the United States on behalf of the Environmental Protection Agency (EPA) under the Safe Drinking Water Act.

As I informed the Court earlier this month in a status report, a stipulation of dismissal, which has already been signed by the defendant, had not yet been received at the Department of Justice from EPA for final approval by the Assistant Attorney General. In that status report, I indicated to the Court that I felt that the approved stipulation could be lodged by the date of this letter. However, the stipulation did not arrive at the Department until February 19.

At this point, however, the stipulation has been presented to the Assistant Attorney General for approval and signature. Assuming his approval, the stipulation should be lodged in the near future. I will inform the Court immediately if any problems arise.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:

Brian G. Donohue
Attorney

Environmental Enforcement Section

cc: George Darragh
Jack Ramirez, Counsel for
Grace Petroleum Corporation

Donchue, B



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 11 1988

OFFICE OF
ENFORCEMENT AND
COMPLIANCE MONITORING

Honorable Roger J. Marzulla
Acting Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Re: Settlement in U.S. v. Grace Petroleum, Civil Action
No. CV-8886-03-GF-PGH (D. Mt. Great Falls Division)

Dear Mr. Marzulla:

I am referring the above-referenced settlement to the Department of Justice for your signature and filing in the appropriate U.S. District Court. This matter, which was referred to us by our Region VIII office, is a Safe Drinking Water Act case for unauthorized underground injection.

Once this settlement is transmitted to the U.S. Attorney's Office, please have your staff send copies of your transmittal to the EPA Regional and Headquarters participating attorneys identified below. Please also have them advise the U.S. Attorney's Office to inform the EPA participating attorneys when the settlement is filed.

The Agency's participating attorneys are:


Al Smith, Esq.
Office of Regional Counsel, Region VIII
U.S. Environmental Protection Agency
999 18th Street, Suite 500
Denver, Colorado 80202-2413

90-5-1-1-2383	
DEPARTMENT OF JUSTICE	
42	FEB 16 1988
	U.S. DISTRICT COURT
	D

FILES DIVISION
FEB 16 1988

Alan J. Morrissey, Esq.
Office of Enforcement and Compliance
Monitoring/Water Division
U.S. Environmental Protection Agency
401 M Street, S.W. (LE-134W)
Washington, D.C. 20460

Sincerely yours,


Thomas L. Adams, Jr.
Assistant Administrator

Enclosure

cc: James Scherer
Thomas Speicher
Paul Baltay
David Buente



U.S. Department of Justice

90-5-1-1-2383
DTB:BGD:rab

Washington, D.C. 20530
February 3, 1988

Clerk
United States District Court
District of Montana
Great Falls Division
215 First Avenue North
Great Falls, Montana 59401

Re: United States v. Grace Petroleum Corporation,
Civil No. CV 86-003-GF-PGH

Dear Sir/Madam:

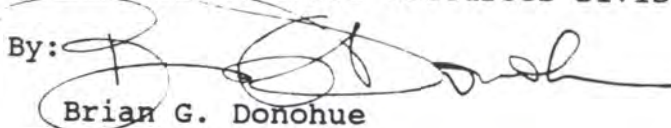
Enclosed for filing is the original and one copy of
Plaintiff's Fifth Status Report.

Thank you.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue
Attorney

Environmental Enforcement Section

cc: Jack Ramirez
George Darragh
Al Smith
Alan Morrissey

FILE

1 George Darragh
Assistant United States Attorney
2 District of Montana
P.O. Box 1478
3 Billings, Montana 59103

4 Brian G. Donohue
Environmental Enforcement Section
5 Land and Natural Resources Division
U.S. Department of Justice
6 10th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20530
7 (202) 633-5471

8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF MONTANA
11 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA) No. CV-03-GF-PGH
13 Plaintiff,)
14 vs.) PLAINTIFF'S FIFTH
15 GRACE PETROLEUM CORPORATION,) STATUS REPORT
16 Defendant.)

17 Plaintiff, the United States of America, through undersigned
18 counsel, files this fifth status report, stating as follows:

19 1. The United States, through undersigned counsel,
20 previously informed this Court that the defendant signed a
21 stipulation of dismissal and forwarded it to the Office of
22 Regional Counsel, Region VIII, U.S. Environmental Protection
23 Agency (EPA), for approval and signature. In addition, the
24 Court was informed that the stipulation also need the approval
25 and signature of the Assistant Administrator for Enforcement and
26 Compliance Monitoring at EPA Headquarters in Washington, D.C.,

1 and the Assistant Attorney General for the Land and Natural
2 Resources Division for the Department of Justice.

3 2. The stipulation has been approved by EPA Region VIII
4 and is awaiting the signature of the Assistant Administrator at
5 EPA Headquarters. Upon his signature, it will be delivered to
6 undersigned counsel to present to the Assistant Attorney
7 General.

8 3. Subject to the Assistant Attorney General's approval
9 and signature, the stipulation will immediately be lodged with
10 this Court. It is anticipated that a fully executed stipulation
11 of dismissal can be filed in this Court within twenty (20) days
12 of the date of this status report.

13
14 Dated this 3rd day of February, 1988.

15 Respectfully submitted,

16 BYRON DUNBAR
17 United States Attorney

18 By: George Darragh
19 Assistant United States Attorney
20 District of Montana

21 Assistant Attorney General
22 Land and Natural Resources Division

23 By: Brian G. Donohue
24 Attorney
25 Environmental Enforcement Section
26

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was caused, on this 3rd day of February, 1988, to be delivered by mail, postage prepaid, to Jack Ramirez, 500 Transwestern Plaza II, P.O. Box 2529, Billings, MT 59103-2529, counsel for Grace Petroleum Corporation.

Attorney
United States of America

7
Don't
1/29/88

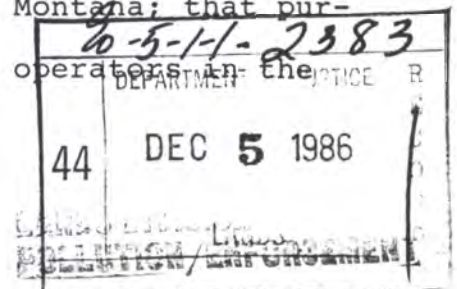
1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7
8
9
10
11

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF MONTANA
14 GREAT FALLS DIVISION
15

16 UNITED STATES OF AMERICA,) No. CV-86-03-GF-PGH
17)
18 Plaintiff,)
19)
20 vs.) BRIEF IN SUPPORT OF
21) MOTION FOR SUMMARY JUDGMENT
22 GRACE PETROLEUM CORPORATION,)
23)
24 Defendant.)
25

26 This civil action has been brought by the United
27 States at the request and on behalf of the Environmental Protec-
28 tion Agency ("EPA") to assess civil penalties of up to \$900,000
29 for alleged violations of the Safe Drinking Water Act ("SDWA"),
30 42 U.S.C. § 300f et seq.

31 The complaint alleges that the defendant, Grace
32 Petroleum Corporation ("Grace"), owned and operated three salt
33 water injection wells in Roosevelt County, Montana; that pur-
34 suant to 40 CFR 147.1351(a) injection well operators in the



State of Montana had to comply with the underground injection control ("UIC") program requirements of 40 CFR Parts 124, 144, 146 and Subpart BB of Part 147; that the UIC program for the State of Montana became effective on June 25, 1984; that despite notice from EPA, Grace continued to operate the injection wells until on or about September 28, 1984; and that Grace's injection of fluids into the wells after July 30, 1984, despite termination of its legal authority to do so, violated the SDWA.

Critical to the United States' case is the contention that Grace's legal authority to inject fluids into the wells terminated on July 30, 1984. This question turns on whether Grace's applications for UIC permits were filed timely. Grace had authority under the regulations to inject, and to continue to inject, if its applications for permits were filed timely. 40 CFR 144.21, 144.25(b). If Grace's applications were timely, Grace is entitled to summary judgment under Rule 56(b), Federal Rules of Civil Procedure.

Grace's applications were timely filed. UIC permit applications were filed by Grace on August 1, 1984. EPA contends the deadline for filing was July 30, 1984; that Grace's applications were two days late; and, accordingly, that Grace lost its authority to inject as of July 31, 1984. Under 40 CFR 124.20(d), however, whenever a party--in this case Grace--is required to act within a prescribed period after the service of a notice by mail, three days is added to the allowable time. Be-

1 cause the EPA notices requiring UIC applications were mailed to
2 Grace, the deadline for filing Grace's UIC applications became
3 August 2, 1984, i.e., three days added to July 30, 1984. Grace's
4 applications were filed on August 1, 1984, one day before expi-
5 ration of the time for filing. Grace continued to enjoy autho-
6 rization to inject under the regulations throughout the period,
7 up to September 28, 1984, for which civil penalties are sought
8 by the government. Grace is therefore entitled to summary judg-
9 ment.

10 BACKGROUND

11 Grace had been injecting salt water on and off into
12 the three wells for a number of years before the federal UIC
13 program became effective in Montana on June 25, 1984. The three
14 wells are denominated EPU 110-XD, Goings Government #1, and Buck
15 Elk #2. Injection into the three wells was initially authorized
16 by the Montana State Board of Oil & Gas Conservation. EPU 110-
17 XD commenced injection in October of 1973, Goings Government in
18 May of 1977, and Buck Elk in December of 1967. (Defendant's
19 Answers To Second Set of Interrogatories, Nos. 1(a), 1(j), 2(a),
20 3(a).) For EPU 110 and Goings Government, Grace was actively
21 filing injection reports with the Montana Board of Oil & Gas
22 Conservation at the time the federal UIC regulations came into
23 effect. (Plaintiff's Answers to Defendant's First Set of Inter-
24 rogatories, Attachment 12 to answer 14(c).) Injection into Buck
25 Elk, however, had been discontinued by Grace in 1982.

1 (Defendant's Answers to Second Set of Interrogatories, Inter-
2 rogatory 3(a).)

3 On June 25, 1984, the EPA regulations for the UIC pro-
4 gram became effective in Montana, preempting the authority of
5 the Montana Board of Oil & Gas Conservation. Under the regula-
6 tory scheme, salt water disposal wells are generally authorized
7 to (continue to) inject for a period of up to five years after
8 UIC program promulgation, unless a UIC permit application is
9 pending. 40 CFR 144.21. During the five-year period (which has
10 not yet expired), the EPA Regional Administrator must "call in"
11 all covered salt water disposal wells for submission of UIC per-
12 mit applications under a schedule established by him. 40 CFR
13 144.31(c). The only time limit imposed on the Regional Adminis-
14 trator is that all UIC permit applications must be submitted
15 within four years of UIC program promulgation, to facilitate
16 processing of all permits within five years. (See the govern-
17 ment's explanation in Plaintiff's Answers to Defendant's First
18 Set of Interrogatories, answer to Interrogatory No. 3.) If,
19 after having been called in for UIC program permitting, a permit
20 is denied or an application is not filed in a timely manner, au-
21 thority for the well to inject expires at that time and before
22 the end of the five-year period. 40 CFR 144.21. The United
23 States' case hinges entirely on a determination that the appli-
24 cations were not filed timely, because otherwise Grace was autho-
25 rized to inject by virtue of the regulations.

1 As of June 25, 1984, there were 171 wells in Montana
2 covered by the new UIC program regulations promulgated by EPA
3 for Montana. (Plaintiff's Answers to Defendant's First Set of
4 Interrogatories, answer No. 3.) Of the 171 injection wells, 18
5 were selected for the first call in for submission of permit ap-
6 plications. (Plaintiff's Answers to Defendant's First Set of
7 Interrogatories, answer to Interrogatory No. 12(b), Attachment
8 11, which is attached hereto for the convenience of the Court as
9 Exhibit A.) Six companies were selected for the initial call in
10 - Ajax, Century Oil, Grace, Mesa Petroleum, Murphy Oil, and TXO.
11 (See Exhibit A.) Even though the regulations had just become
12 effective and were quite complex, these companies had only 35
13 days in which to comply with the schedule established by the EPA
14 Regional Administrator to submit UIC permit applications for
15 each of the 18 wells. (Exhibit A; Plaintiff's Answers to Defen-
16 dant's First Set of Interrogatories, answer to Interrogatory 4,
17 attached hereto for the convenience of the Court as Exhibit B.)

18 The complexity of the applications is apparent from
19 the regulations and instructions. This complexity, however, is
20 confirmed by the fact that EPA personnel involved in the UIC
21 program were given the benefit of an extensive workshop to
22 familiarize them with the new form and related procedures. The
23 permit training seminar, as it was called, was held in Denver,
24 Colorado, on February 22, 23, and 24, 1984. The training mate-
25 rials from the seminar are shown in Attachment 14 to the Plain-

1 tiff's Answers to Defendant's First Set of Interrogatories. The
2 instructions for filling out the permit are shown in Attachment
3 13.

4 The three-day seminar was needed to instruct govern-
5 ment personnel in how to review permit applications under the
6 UIC program. William E. Engle, program director for the UIC
7 program in Montana during the time in question, was deposed by
8 the defendant in this case on June 2, 1986. Mr. Engle testi-
9 fied:

10 "Q. What was the purpose of the meeting?

11 "A. It was a permit writer's workshop.

12 "Q. How many days"

13 "A. Three, I'm going to say.

14 "Q. Where was it held?

15 "A. Here in Denver.
16 (Engle Dep., pp. 31, 32.)

17 * * *

18 "Q. Why did you go?

19 "A. Training in my position.

20 "Q. Training to know--

21 "A. Review.

22 "Q. --how to fill out and review these per-
mit applications?

23 "A. More on how to review the permit appli-
24 cations.

25 "Q. How to review them to see if they were
complete?

1 "A. Correct.

2 (Engle Dep., p. 32.)

3 "Q. So it would be the same subject matter
4 as if you were trying to learn how to fill
5 one out?

6 "A. Correct.

7 (Engle Dep., p. 33.)

8 * * *

9 "Q. Was the subject limited to the UIC pro-
10 gram applications?

11 "A. Yes."

12 Engle's training at the seminar was designed to help
13 him answer questions regarding the new UIC permit applications.

14 Engle testified:

15 "It was a new form. People didn't quite un-
16 derstand what they had to submit, what they
17 were - what was really needed, and those
18 were the type of questions that I recall an-
19 swering." (Engle Dep., pp. 29-30.)

20 Although the 18 wells in the initial call in were
21 given only 35 days to submit applications for permits, injection
22 wells selected since that time, under the schedule established
23 by the same regional administrator, have enjoyed a considerably
24 longer time period in which to submit UIC permit applications.
25 Exhibit A, which is the schedule of "call ins" for this region,
shows that the time period given in the February 5, 1985, call in
was generally 55 days. In the more recent call ins, the time
period has generally been between 84 and 92 days. (See Exhibit
A.)

1 Of the six companies involved in the call in of the
2 initial 18 wells on June 25, 1984, only Century Oil submitted
3 applications within the time period specified. (Exhibit A.)
4 Ajax' application was not received by the EPA until August 13,
5 1984, but no extension was requested. Mesa Petroleum did not
6 submit an application within the 35-day time period, but the EPA
7 apparently learned or was notified on August 13, 1984, that the
8 well had been plugged and abandoned. TXO's well also was
9 plugged and abandoned, although the date of notification of the
10 EPA is not noted in Exhibit A. Two of Grace's wells, Huber #1
11 and #2, had been plugged and abandoned and no applications were
12 submitted.

13 On August 1, 1984, Grace mailed the applications for
14 the wells in question to the EPA. The applications were sent by
15 certified mail, No. P423 791 636, with a return receipt re-
16 quested. The receipt for certified mail, issued by the United
17 States Post Office, shows that the applications were in fact
18 mailed on August 1, 1984. (The information on mailing is con-
19 tained in Defendant's Answers to Plaintiff's First Set of Inter-
20 rogatories, answer to Interrogatory 16(g), with copies of the
21 return receipts attached.) The applications are considered by
22 the EPA to be filed and submitted on the date of mailing.
23 (Engle Dep., pp. 55, 56.)

24 Murphy Oil's applications were received on August 29,
25 1984, by the EPA. The EPA, however, through Mr. Engle, had

1 granted a 30-day extension to Murphy Oil. (Plaintiff's Answers
2 to Defendant's First Set of Interrogatories, Interrogatory an-
3 swer 42(c).) Mr. Engle testified:

4 "Q. How about Murphy?

5 "A. I was in--contacted by them, yes.

6 "Q. When?

7 "A. Prior to July 30, 19084.

8 "Q. Who contacted you?

9 "A. One of their engineers in their
10 Eldorado, Arkansas office. I cannot remem-
ber his name.

11 "Q. Did he call you or write you?

12 "A. He called me. Sid Campbell is his
13 name.

(Engle Dep., pp. 43, 44.)

14 * * *

15 "Q. And do you recall what he said to you
16 and what you said to him?

17 "A. He--we, during the--again, the course
of the conversation, where he had questions
18 on the application, but the question of an
extension of time did come up.

19 "Q. How did it come up, if you remember?

20 "A. He brought it up. He brought it up.

21 "Q. How did he bring it up? What did he
22 say?

23 "A. Something to the effect that they--it
didn't look like they would get their appli-
24 cations in on--by that July 30 date, and was
it possible to get an extension of time.

25 "Q. Where were Murphy's wells located?

1 "A. The same general area as the Grace
2 wells.

3 "Q. On the reservation?

4 "A. On the reservation, yes.

5 "Q. Were all of these eight to ten wells on
6 the reservations?

7 "A. Yes, they were.

8 "Q. And by the eight to ten, I'm talking
about in the first deadline of July 30,
9 1984.

10 "A. Right, they were all on the reserva-
tion.

11 "Q. What did you say to him?

12 "A. I said I felt it was possible to get an
13 extension of time, but it would require them
14 to submit a letter requesting such an exten-
sion, and it would have to be officially ap-
proved by our office director.

15 "Q. Who was?

16 "A. John Wardell."
17 (Engle Dep., pp. 44, 45.)

18 * * *

19 "Q. Did Murphy Oil Company write a letter?

20 "A. Yes, they did."
(Engle Dep., p. 48.)

21 * * *

22 "Q. I apologize. I got these out of order.
23 Deposition Exhibit A-4, then, is the letter
written by Murphy Oil?

24 "A. Correct.

25 "Q. Referring to Exhibit A-4, as I under-

stand it, Mr. Simpson called you first, however?

"A. Mr. Sid Campbell.

"Q. Oh, excuse me.

"A. Yes.

"Q. And you discussed with him an extension of time?

"A. Right.

Q. And did you suggest to him that he write a letter?

"A. Yes.

"Q. Did you ask Mr. Wardell or Mr. Montgomery first before telling him that he needed to write a letter?

"A. No, I did not.

"Q. You were just basically going on standard procedure?

"A. Correct.

"Q. Did you tell him that if a written request was made, that it would be granted?

"A. I believe I said something to the effect it would probably be granted. I did lead him to believe it would be granted. I did not say it wouldn't be granted though.

"Q. Did you discuss with him a particular date for the extension?

"A. I do not recall, I think--okay. He may have said something like they'd need another 30 days or, you know, some length of time like that. As to a specific date, no, I did not say August 31 or anything like that, but--

1 "Q. And you didn't feel the 30 days was an
2 unreasonable length of time?

3 "A. No, I did not."
4 (Engle Dep., pp. 48, 49.)

5 A question of fact exists as to whether Grace, through
6 its employee Matt Strever, requested an extension of time from
7 Mr. Engle. For purposes of this motion, it can be assumed that
8 no request for an extension was made by Mr. Strever. It is,
9 nevertheless, important to note that had such a request been
10 made in writing, there is no reason to doubt it would have been
11 granted. Mr. Engle further stated:

12 "Q. As far as you know, there was no ur-
13 gency or emergency regarding any of the
14 Grace wells or Mesa's wells or Murphy's
15 wells or Ajax's well that would have pre-
16 cluded an extension of time?

17 "A. No.
18 (Engle Dep., p. 47.)

19 * * *

20 "Q. And it's your testimony, based upon
21 what you know about the circumstances of
22 this case, that had a written request been
23 made by Grace Petroleum prior to July 30,
24 1984, seeking an extension of time for two
25 days or even 30 days, that it would have
been approved?

"A. Most likely, yes.

"Q. You don't have any reason to doubt that
it would have been approved--

"A. Right.

"Q. --do you?

"A. No, I do not.

1 "Q. There were no circumstances of which
2 you are aware that would distinguish it from
the Murphy Oil request?

3 "A. No."
4 (Engle Dep., pp. 50, 51.)

5 Unfortunately, there are no regulations, policies or
6 other writings of the EPA from which an affected company can de-
7 termine that extensions of time can be obtained. (Plaintiff's
8 Answers to Defendant's First Set of Interrogatories and Requests
9 for Production of Documents, response to Request for Production
10 No. 16.) In this regard, Engle also testified:

11 "Q. Were there any regulations that dealt
12 with extensions of time?

13 "A. No.

14 "Q. Had you ever had any discussions with
15 anyone, either Mr. Wardell, Mr. Montgomery
or anyone in the Denver office, as to exten-
sions?

16 "A. For this particular instance or--

17 "Q. That is, in general.

18 "A. In general, just my previous experience
19 with having worked with the agency, I did
20 know the requirements for granting exten-
sions and those sorts of things.

21 "Q. Were those requirements informal re-
22 quirements; that is, were they documented or
written down in any place?

23 "A. For me or for--

24 "Q. For anybody.

25 "A. I do not know if they are or not.

1 "Q. Have you ever seen any written docu-
2 ments that contain the policies or proce-
3 dures for obtaining extensions of time for
4 any--

5 "A. No.

6 "Q. --reason?

7 "A. I have not.

8 "Q. So it was just an unwritten rule?

9 "A. The unwritten rule is, yes, that it had
10 to be in writing and that it had to be offi-
11 cially approved."

12 (Engle Dep., pp. 45, 46.)

13 * * *

14 "Q. In the unwritten rule regarding exten-
15 sions, what were the criteria, other than
16 just asking for it in writing?

17 "A. And having a reasonable request as to
18 why you believe you wouldn't be able to, and
19 a reasonable amount of time to finish what-
20 ever your request was for."

21 (Engle Dep., p. 47.)

22 SEQUENCE OF EVENTS

23 The official EPA notice¹ of the requirement to file
24 UIC applications was dated June 25, 1984, and was presumably
25 mailed on that date by the EPA. The notice was addressed to a
Grace employee, James Johnson, at the offices of Grace in
Lakewood, Colorado. The notice was date stamped as received in

26 ¹ Defendant's references in this brief to the "notice" should
27 not be considered an acknowledgment that the letter of June 25,
28 1984, constituted a valid or adequate notice under the
29 regulations or law. Defendant contends that the letter was
30 defective and insufficient.

1 that office on June 27, 1984. (Defendant's Response to
2 Plaintiff's First Request for Admissions, attached to request
3 No. 1, attached hereto for the convenience of the Court as
4 Exhibit C.)

5 Matthew Strever, a college student who was employed
6 during the summer of 1984 and then part-time during the school
7 year, was given the task of completing the applications.
8 (Strever Dep., pp. 6, 19.) Strever attempted to call the EPA on
9 several occasions. (Strever Dep., pp. 32, 42, 43.) There is a
10 question of fact as to whether he spoke to Mr. Engle before or
11 after July 30, 1984, but they did have a conversation on at
12 least one occasion in which Strever asked questions as to how to
13 complete the applications. (Engle Dep., pp. 54, 55.) Grace's ap-
14 plications were then filed with the EPA by mailing on August 1,
15 1984.

16 On August 16, 1984, John J. Welles, the regional ad-
17 ministrator of the EPA, sent a letter to James Johnson in the
18 Lakewood, Colorado, office of Grace informing him that Grace was
19 late in filing its UIC applications and had lost authorization
20 by rule to inject. (Engle deposition p. 60, deposition Exhibit
21 A-6.)

22 Grace continued to inject in two of the three wells
23 while it attempted to meet the EPA's requirements. In
24 September, Grace filed applications for emergency permits from
25 the EPA. When these permits were denied, injection ceased on

1 September 28, 1984. Permits were eventually issued by the EPA,
2 however, for two of the three wells; the third was plugged and
3 abandoned.

4 ARGUMENT

5 "ADD THREE DAYS IF NOTICES MAILED"

6 Grace contends that its UIC applications were timely
7 submitted pursuant to 40 CFR 124.20(d), which provides:

8 "Whenever a party or interested person has
9 the right or is required to act within a
10 prescribed period after the service of no-
11 tice or other paper upon him or her by mail,
12 three (3) days shall be added to the pre-
13 scribed time."

14 The above cited regulation is nearly identical to Rule
15 6(e) of the Federal Rules of Civil Procedure. The only relevant
16 difference is the last word, "time" in the regulation and
17 "period" in the rule of procedure. Part 124 of Title 40 of the
18 Code of Federal Regulations is specifically alleged by the
19 government in the complaint to be applicable to the UIC program
20 requirements.

21 The purpose of Rule 6(e), F.R.Civ.P. is to account for
22 the time required for mail delivery. Cf. Norris v. Florida
23 Department of Health and Rehabilitative Services, 730 F.2d 682
24 (11th Cir. 1984). Rule 6(e) applies where some act must be done
25 on a certain date after mail service. See, e.g., In re
Stephens, 211 F.Supp. 201 (S.D. Tex. 1961).

According to the Federal Register Comment published at
the time of the adoption of the above-cited regulation, 40 CFR

1 124.20, the section was amended ". . . to include methods for
2 computing time that conform with the Federal Rules of Civil Pro-
3 cedure." 45 F.R. 33412, May 19, 1980. (Emphasis supplied.)
4 Logically, the Comment suggests that the administrative inten-
5 tion behind adoption of the regulation was broader than its com-
6 plemental federal procedural rule.

7 Our heading for argument in this brief - "add three
8 days if notices mailed" - is taken from the course manual devel-
9 oped for EPA by the T. A. Minto Group, Oklahoma City, and pre-
10 sented to attendees at the UIC permit training seminars. Two
11 were held in 1984 by EPA for its employees, one in Denver and the
12 other in Atlanta. Mr. Engle attended the one in Denver, which
13 was the first UIC permit training seminar.

14 40 CFR 124.20(d) is succinctly interpreted by EPA in
15 the course manual to add three days if notices mailed. The
16 manual states:

17 "§124.20 Computation of time.

18 "(a) Time period starts the day after ac-
19 tual event occurs (SC-Specifics)

20 "(b) Time period starts on day before act
or event (SC-Specifics)

21 "(c) If final date is weekend or holiday -
22 day after

23 "(d) Add three days if notice is mailed
(Emphasis supplied.) (Page 24 Course
24 Manual, "A SUMMARY OF PART 124 SUBPART
A," contained in Attachment 14, attached
25 hereto for the convenience of the Court as
Exhibit D.)

Grace agrees with this interpretation, the only one uncovered so far in discovery and research specifically relating to 40 CFR 124.20(d). Great deference will be afforded to an interpretation adopted by an administrative agency. One court has enunciated the principle as follows:

"When construction of an agency regulation is in issue, courts owe great deference to the interpretation adopted by the agency and will uphold that interpretation if it is reasonable and consistent with the regulation. The court need not find that the agency's construction is the only possible one, or even the one that the court would have adopted in the first instance. Belco Petroleum Corp. v. Federal Energy Regulatory Commission, 589 F.2d 680, 685 (D.C. Cir. 1978). (Emphasis supplied.)"

The EPA notice of June 25, 1984 (Exhibit C) requested that the UIC applications be submitted "by July 30, 1984." Although the time for compliance was fixed by reference to a particular date, this language created a prescribed period or prescribed time in which the applications were to be filed. Nowhere in the federal regulations could Grace look to ascertain why July 30 was chosen. The notice itself refers to the need to submit the permit applications "within the time period specified in this notice." (Emphasis supplied.) (Exhibit C.) The government, by the very language of its notice, recognized it was creating a prescribed "period" or prescribed "time" in which Grace was to act. The regulation clearly adds three days where there is such a prescribed period or prescribed time.

1 That the intendment of the regulation was to create a
2 time period by the notice of June 25 is underscored by the gov-
3 ernment's documents and discovery responses reflecting that
4 Grace had 35 days in which to respond. (Exhibits A and B.)
5 Exhibit A, which is a schedule of "days given" for the Call-Ins
6 in Region VIII, shows that in each instance the "days given"
7 were 35 in number for the first round of injection well
8 applications. Exhibit B, which is an excerpt of our
9 interrogatories and the government's answers thereto, reads as
10 follows:

11 "(Interrogatory No.) 4: As to the wells . .
12 . in each case, what is, or was, the time
13 period after initial notification in which
14 applications for UIC permits had to be sub-
15 mitted?

16 "Answer: . . . The first group of wells
17 called in in Montana, such as the Grace
18 wells in this case, were allowed 35 days to
19 submit applications."

20 Grace's filing by certified mail of the UIC permit
21 applications on August 1, 1984, was on the 35th day after
22 receipt of the notice at its offices in Lakewood, Colorado. The
23 regulation, 40 CFR 124.20(d), clearly grants an additional three
24 days of time because of service of the notice by mail. The
25 deadline for submission became August 2, 1984. The applications
were submitted August 1 and were therefore filed in a timely
manner, permitting continued injection throughout the time in
question.

1 A regulation providing notice, such as 40 CFR
2 124.20(d), is to be strictly observed by the promulgating
3 agency. Notice is an important procedural right. See EEOC v.
4 Western Electric Co., Inc., 382 F.Supp. 787, 796-797, (D. Md.
5 1974). Procedural due process hinges on the adequacy of full
6 and proper notice to the affected party.

7 UIC permits were eventually issued by the EPA for two
8 of the three wells; the third was plugged and abandoned. All of
9 the severe and drastic ramifications and consequences for Grace
10 in this case can be traced to the failure of government to
11 follow its own "add three days if notices mailed" regulation, 40
12 CFR 124.20(d). If the government had followed the plain meaning
13 of its regulation, or the unambiguous interpretation of the
14 regulation which is reflected in the training course manual,
15 Grace would not be in the fix it is today. Grace's authority to
16 inject never would have lapsed.

17 Moreover:

18 "If a violation of a regulation subjects
19 private parties to criminal or civil sanc-
20 tions, a regulation cannot be construed to
21 mean what an agency intended but did not ad-
equately express." Phelps Dodge Corp. v.
Federal Mine Safety and Health Review Com.,
681 F.2d 1189, 1193 (9th Cir. 1982). ¹

22 Of course, Grace feels the regulation is clear on its

23
24 ¹ While Grace is not accused of violating 40 CFR 124.20(d),
25 failure to apply 40 CFR 124.20(d) has led to Grace's alleged
violation of other EPA regulations and the government's pursuit
of the imposition of civil penalties.

1 face and has been interpreted consistently with its plain mean-
2 ing by virtue of the training manual used by EPA. More impor-
3 tantly, EPA's express statement that its notice created not
4 merely a deadline, but a "time period" in which to comply (see
5 Exhibit A), clearly demonstrates that the letter of June 25,
6 1984, falls within the scope of the regulation.

7 The foregoing administrative law policies should be
8 applied to this case to avoid an unjust result. Simple fairness
9 and applicable law demands that Grace be extended the three days
10 from the date notices were mailed and that summary judgment be
11 entered in its favor.

12 REQUEST FOR ORAL ARGUMENT

13 The defendant hereby requests oral argument on its
14 motion for summary judgment pursuant to Rule 220-1 of the Local
15 Rules of this Court.

16 Dated this 2nd day of December, 1986.

17 CROWLEY, HAUGHEY, HANSON,
18 TOOLE & DIETRICH

19 By

Jack Ramirez
Jack Ramirez

20 By

James P. Sites
James P. Sites
P.O. Box 2529

Billings, Montana 59103
Attorneys for Defendant

21 CERTIFICATE OF SERVICE

22 This is to certify that the foregoing was duly
served by mail upon all parties or attorneys of
record at their address or addresses this
23 2nd day of Dec 1986

CROWLEY, HAUGHEY, HANSON
TOOLE & DIETRICH

24 By

Jack Ramirez
BOX 2529 BILLINGS, MT 59103-7529

Region VIII - Early Call-Ins

(A) OPERATORS NOTIFIED TO SUBMIT APPLICATION	WELL NAME	(B) DATE WELL CALLED IN	(C) RESULT OF NOTIFICATION	# DAYS GIVEN
AJAX	MCDONALD #3	25-Jun-84	APP. REC'D 13-Aug-84 (LOST RULE AUTHORIZATION)	35
CENTURY	VICKERS #1	25-Jun-84	APP. REC'D 30-Jul-84	35
CENTURY	GOINGS #1	25-Jun-84	APP. REC'D 30-Jul-84	35
CENTURY	CLARK #1	25-Jun-84	APP. REC'D 30-Jul-84	35
CENTURY OIL	COX NO. 1	25-Jun-84	NEVER DRILLED	35
GRACE	HUBER NO.1	25-Jun-84	WELL P&A'd	35
GRACE	BUCK ELK #2	25-Jun-84	APP. REC'D 06-Aug-84 (LOST RULE AUTHORIZATION)	35
GRACE	GOINGS GOV'T	25-Jun-84	APP. REC'D 06-Aug-84 (LOST RULE AUTHORIZATION)	35
GRACE	HUBER NO.2	25-Jun-84	WELL P&A'd	35
GRACE	EPU 110-XD	25-Jun-84	APP. REC'D 06-Aug-84 (LOST RULE AUTHORIZATION)	35
MESA PETROLEUM	BIERE	25-Jun-84	WELL P&A'd 13-Aug-84	35
MURPHY	EAST POPLAR 29-D	25-Jun-84	APP. REC'D 29-Aug-84	35
MURPHY	EAST POPLAR 59-D	25-Jun-84	APP. REC'D 29-Aug-84 (WELL EVENTUALLY P&A'd)	35
MURPHY	EAST POPLAR 1-D	25-Jun-84	APP. REC'D 29-Aug-84	35
MURPHY	EAST POPLAR 80-D	25-Jun-84	APP. REC'D 29-Aug-84	35
MURPHY	EAST POPLAR 5-D	25-Jun-84	APP. REC'D 29-Aug-84	35
MURPHY	EAST POPLAR 8-D	25-Jun-84	APP. REC'D 29-Aug-84	35
TXO	BUCKLES	25-Jun-84	WELL P&A'd	35
MOBIL OIL CORP.	TRIBAL BEAR #1	05-Feb-85	APP. REC'D 02-May-85	86
MURPHY OIL	MULE CREEK 1-D	05-Feb-85	WELL TA'd, to be PA'	55
MURPHY OIL	BRIDGES 1-D	05-Feb-85	WELL TA'd, to be PA'	55
MURPHY OIL	LILIAN 1-D	05-Feb-85	APP. REC'D 29-Mar-85	55
MURPHY OIL	STETVOID B-1	05-Feb-85	APP. REC'D 29-Mar-85	55
PENNZOIL	MANN #1 SWD	05-Feb-85	APP. REC'D 11-Apr-85 (LOST RULE AUTHORIZATION)	55
PETRO-LEWIS	LOUGH #2	05-Feb-85	APP. REC'D 24-Apr-85 (LOST RULE AUTHORIZATION)	55
READING & BATES	ALLOTTED HALL SWD	05-Feb-85	APP. REC'D 21-Mar-85	55
TERRY SCHAGUNN	NEES SWD #1	05-Feb-85	APP. REC'D 05-Apr-85	55
TERRY SCHAGUNN	NORDWICK	05-Feb-85	WELL P&A'd	55
SUN EXPLORATION	HELLEGAARD #3	26-Sep-85	WELL P&A'd 29-NOV-85	95
EXXON CORPORATION	REDDIG NO. 1	04-Oct-85	APP. REC'D 24-Dec-85	91
FRANKS PETROLEUM	STAI NO. 1	04-Oct-85	APP. REC'D 24-Dec-85	91
P&M PETROLEUM	#2 CHARLES TRACK	04-Oct-85	APP. REC'D 03-Jan-86	91
PETROLEUM, INC.	BIG TRACK LITTLE 1	04-Oct-85	APP. REC'D 07-Jan-86	91
SUN EXPLORATION	REDDIG FARM 1-32	04-Oct-85	WELL P&A'd 24-MAY-86	91

(A) OPERATORS NOTIFIED TO SUBMIT APPLICATION	WELL NAME	(B) DATE WELL CALLED IN	(C) RESULT OF NOTIFICATION	# DAYS GIVEN
BALCRON OIL	GJULLIN	21-Jan-86	APP. REC'D 24-Mar-86	84
BALCRON OIL	STATE B-2	21-Jan-86	APP. REC'D 24-Mar-86	84
BALCRON OIL	JONES 2	21-Jan-86	APP. REC'D 24-Mar-86	84
BEREN CORP.	DOORENBOS 2	21-Jan-86	APP. REC'D 15-Apr-86	84
BEREN CORP.	LARMAN 4	21-Jan-86	APP. REC'D 15-Apr-86	84
BRECK OPERATING	D-1	21-Jan-86	APP. REC'D 14-Apr-86	84
BRECK OPERATING	D-2	21-Jan-86	APP. REC'D 14-Apr-86	84
FULTON PRODUCING	ERICSON 1-5	21-Jan-86	APP. REC'D 17-Apr-86	84
FULTON PRODUCING	EDWARD JONES 1-17	21-Jan-86	APP. REC'D 17-Apr-86	84
GYPSY HIGHVIEW	GHGS/KRUGER #17	21-Jan-86	APP. REC'D 08-Apr-86	84
PETROX PETROLEUM	MANCORONEL #3	21-Jan-86	APP. REC'D 17-Apr-86	84
PETROX PETROLEUM	AAKRE #7	21-Jan-86	APP. REC'D 17-Apr-86	84
SOMONT OIL	ANDERSON DISP. 1A	21-Jan-86	APP. REC'D 14-Apr-86	84
TYNER OIL MGMT	HB ERICKSON #10	21-Jan-86	APP. REC'D 08-Apr-86	84
TYNER OIL MGMT	LADERER #5	21-Jan-86	APP. REC'D 08-Apr-86	84
TYNER OIL MGMT	MORRIS #2	21-Jan-86	APP. REC'D 08-Apr-86	84
MURPHY OIL	WETSIT NO. 1	22-Jan-86	APP. REC'D 11-Apr-86	88
MURPHY OIL	COURCHENE 1-D	11-Apr-86	APP. REC'D 09-Jun-86	59
HAWLEY OIL	STATE B #5	04-Sep-86	APP. DUE 05-Dec-86	92
HAWLEY OIL	SKOV #5	04-Sep-86	APP. DUE 05-Dec-86	92
HAWLEY OIL	MUNSON	04-Sep-86	APP. DUE 05-Dec-86	92

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Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	Civil Action No.
	)	CV-860-03-GF-PGH
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	
)	
)	

PLAINTIFF'S ANSWERS TO DEFENDANT'S FIRST SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

The plaintiff, United States of America, answers the
defendant's first set of interrogatories and requests for
production of documents, as follows;

4. As to the wells identified in your answer to the preceding interrogatory, in each case, what is, or was, the time period after initial notification in which applications for UIC permits had to be submitted?

ANSWER

As stated in the answer to interrogatory 3, each Regional Administrator has discretion under § 144.31(c) to schedule the permitting of existing Class II salt water disposal wells to best accomplish overall UIC program goals and objectives in light of the varying permitting workload in each Region. Attachment 3 summarizes the time period allowed for call-ins of Class II salt water disposal wells in each Region, except Region VIII.

In Montana, Region VIII has typically allowed up to 90 days for submittal of applications, with shorter time frames for operators of wells for which the region has reason to believe that program requirements may not be met. The first group of wells called in in Montana, such as the Grace wells in this case, were allowed 35 days to submit applications. This time frame is in keeping with 40 C.F.R. § 144.25(b)



Telecopied Bob Coffin 8/20/84

RECEIVED

JUN 27 1984

REF: 8WM-DW

JUN 25 1984

GPC ROCKY MOUNTAIN
REGION OPERATIONS

Mr. James Johnson
Grace Petroleum Corporation
143 Union Boulevard, Suite 760
Lakewood, Colorado 80228

Dear Mr. Johnson:

You are hereby requested to submit permit applications for the following wells by July 30, 1984:

Field

Well Name

East Poplar

✓ EPU 110XD

~~Buck Elk No. 2~~

~~Huber No. 1~~

Huber No. 2

EPU 110 XD

NW Poplar

✓ Goings Government

EPA is requiring permit applications for these wells for the following reasons: 1) ~~The agency has determined that salt water disposal (SWD) wells~~ pose a significant threat to Underground Sources of Drinking Water (USDW's) in this area and is therefore permitting them as soon as possible; and; 2) EPA has received assertions from the Bureau of Indian Affairs (BIA) of ground water contamination as a possible result of salt water disposal activities on the Fort Peck Indian Reservation. Since the East Poplar and Northwest Poplar fields are the area of greatest concern to the tribe and the BIA, we are requesting that permit applications for wells from these fields be submitted first.

Please complete one of the enclosed application forms for each well listed by July 30, 1984. Be sure that all the applications are complete and that all required attachments are included. Submit the completed applications to:

Chief, Drinking Water Branch
U.S. Environmental Protection Agency (8WM-DW)
1860 Lincoln Street
Denver, Colorado 80295

EXHIBIT C

The SWD wells listed above may continue to operate under current authorization by rule until:

The effective date of a permit (activities will then be authorized by permit);

The denial of a permit (the well will no longer be authorized to inject); or

The owner or operator fails to submit the permit application within the time period specified in this notice (at which time the authorization to inject will be revoked).

I encourage you to contact either Richard Long in the EPA Denver Regional Office (Phone: (303) 844-3914) or William Engle in the EPA Montana Operations Office (Phone: (406) 449-5414) as soon as possible if you have any questions.

Sincerely yours,


John F. Wardell, Director,
Montana Office

Enclosures: Permit Application Forms

A SUMMARY OF PART 124
SUBPART A

§124.19(d) (continued)

- (3) Either: (i) interests of facility and public not materially adversely offended; (ii) adverse effects is outweighed by benefits likely.
- (e) Petition for review under this section is prerequisite to seeking judicial review.
- (f) For purpose of judicial review final action will occur when.....
(See Language)

§124.20 Computation of time

- (a) Time period starts the day after actual event occurs (See Specifics)
- (b) Time period starts on day before act or event (See Specifics)
- (c) If final day is weekend or holiday - day after
- (d) Add three days if notices mailed

§124.21 Effective date of Part 124

- (a) Applies in entirety to processing of UIC permits
- effective date July 18, 1980
- (b) Not applicable
- (c) Part 124 not implemented for UIC until effective date of
40 C.F.R. Part 146
- (d) Not applicable to UIC
- (e) Not applicable to UIC

Jack Ramirez
Crowley, Haughey, Hanson
Toole & Dietrich
P. O. Box 2529
Billings, Montana 59103
406-252-3441
Attorneys for Defendant

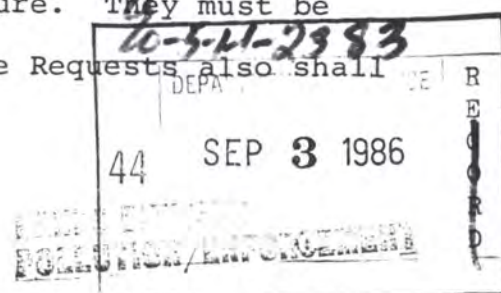
Donkue B
8/29/88

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA	)	Cause No. CV-86-003-GF-PGH
)	
Plaintiff,)	
)	
vs.	)	FIRST INTERROGATORIES TO PLAINTIFF
	)	AND REQUESTS FOR PRODUCTION OF
GRACE PETROLEUM CORPORATION,	)	DOCUMENTS
)	
Defendant.)	

Defendant, by its attorney, hereby propounds interrogatories to the Plaintiff, pursuant to Rule 33 of the Rules of Civil Procedure. Interrogatories must be answered in writing by a person under oath within the time period allowed. The interrogatories shall be deemed continuing in nature so as to require supplemental answers in the event that further information is obtained after the initial answers are served and filed.

Defendant also propounds Requests for Production of Documents, pursuant to Rule 34 of the Rules of Civil Procedure. They must be answered in writing within the time allowed. The Requests also shall



be deemed continuing in nature so as to require supplemental responses to be filed in the event that additional information is obtained after the date the initial responses are served and filed.

As for the Requests, Defendant requests Plaintiff to produce and permit Defendant, through its attorneys, to inspect and copy, if desired, each of the below-listed documents, or sets of documents, as the case may be, at the Offices of the United States Attorney, Federal Building, Billings, Montana on September 30, 1986, beginning at 8:30 o'clock A.M.

INTERROGATORIES

1. What other states, in addition to Montana, did not opt to have their own underground injection control ("UIC") program?

2. For each of the states identified in your answer to the preceding interrogatory, when were their UIC programs put into effect (by EPA)?

3. For each state which did not opt to have its own UIC program, give the number of wells in each such state for which an application for the UIC permit, like that required of Grace Petroleum Corporation ("Grace"), had to be submitted.

4. As to the wells identified in your answer to the preceding interrogatory, in each case, what is, or was, the time period after initial notification in which applications for UIC permits had to be submitted?

5. With regard to these states, which did not opt to have their own UIC program, in each such state, what percentage of all wells requiring permitting were selected for the first deadline for submitting the application for the UIC permit?

6. With regard to each such state, i.e., those that did not opt to have their own UIC program, in each case, when was the first deadline set, after the respective implementation dates for the UIC program?

7. With regard to each such state, i.e., those referenced to in the preceding interrogatories, what was the procedure for selecting wells to be notified of the requirement to submit an application for a UIC permit and how were all permitting deadlines determined?

8. (a) Identify (name, title and current address) the members of the Selection Committee referenced to by Mr. William Engle at page 23 of his deposition of June 2, 1986 ("Engle deposition").

(b) When did this Selection Committee hold its meetings?

(c) What materials were referred to and were available to its members with regard to the discussions, deliberations, and decisions of this Selection Committee?

(d) Identify all persons who appeared before the Selection Committee or had any input or contact with its members on any subject of the Committee's deliberations.

9. Why didn't the 1,300 enhanced recovery wells in Montana have to submit an application for the UIC permit (See Engle deposition, P.24)?

10. (a) With reference to the Montana UIC program, put into effect on June 25, 1984, in what manner was the first deadline established for submission of applications for UIC permits?

(b) Who(m) established this deadline?

(c) What factors were considered in establishing this first deadline?

(d) Identify all people who had input in the decision setting the first deadline for submitting applications for UIC permits in Montana.

11. As to Montana, at what times, were, or will, the remaining wells required to submit an application for UIC permits be notified?

12. (a) Who has been notified in Montana so far to submit an application for a UIC permit and give the name of the well which each notification relates to.

(b) With regard to your answers to subpart (a) of this interrogatory, give the date upon which each notification was sent.

(c) Give the result of each notification and, specifically, whether an extension of time was granted, if so, detail the circumstances involved.

(d) Besides this case against Grace, in Montana, has other enforcement action been undertaken in regards to UIC permitting, if so, detail the circumstances involved.

(e) Which wells in Montana remain to be notified of the requirement to submit an application for UIC permit.

13. How was the schedule in Montana for notifying wells of the requirement to submit an application for UIC permit determined?

14. (a) In Montana, how were each group of wells notified of the requirement to submit an application for UIC permit determined after the first group was selected?

(b) Who(m) made this determination, of the order of notification?

(c) What was considered in setting this order?

(d) Identify all the people who were involved in determining the order of notification and what was considered in establishing same.

15. Today, in Montana, what is the time period ("period") allowed from EPA's notification to submit an application for a UIC permit to submit same?

16. Who(m) made the decision to increase the period, identified in your answer to the preceding interrogatory, from that given to Grace?

17. When was this change increasing the period made?

18. Why was this change increasing the period made?

19. What factors were considered in increasing the allowable period?

20. Identify all people involved in the process which resulted in the above-referenced change increasing the allowable period?

21. Who (m) composed the federal regulations pertaining to the UIC program?

22. Who (m) was involved in the composition of the UIC federal regulations?

23. Who (m) designed the original form ("form") for applying for the UIC permits?

24. Who(m) was involved in designing the original forms for applying for the UIC permits?

25. Has the form been changed?

26. Have the instructions to the form been changed?

27. Have the requirements for issuance of a UIC permit been changed?

28. If your answer to any of the preceding three interrogatories is affirmative, as to the changes, each of them,

(a) Describe the changes.

(b) When were the changes made?

(c) Why were they made?

(d) Who(m) made them?

(e) Who(m) was involved in the changes being made?

29. With regard to the permit writers' workshops, referenced to at page 32 of Engle deposition, answer the following:

(a) When were such workshops held?

(b) Where were they held?

- (c) Identify the length of each workshop.
- (d) Why were such workshops held?
- (e) Who(m) authorized such workshops to be held?
- (f) Who(m) conducted such workshops?
- (g) What written materials were used?
- (h) Who(m) attended each such workshop?

30. Were there public meetings held in any state to help those who had to complete an application for the UIC permit?

31. If your answer to the preceding interrogatory is affirmative, in each case, answer the following:

- (a) When were such public meetings held?
- (b) Where were they held?
- (c) Why were such public meetings held?
- (d) Who (m) conducted such public meetings?
- (e) What written materials were used in such public meetings?
- (f) Who (m) attended such public meetings?

32. Who prepared the letter identified as Exhibit A-2, at page 36 of Engle deposition?

33. Do you admit that EPA received applications from Grace for UIC permits for three wells, EPU 110-XD, Goings Government #1 and Buck Elk #2, no later than August 6, 1984?

34. If your answer to the preceding interrogatory is negative, state the reasons why.

35. Give the names, title and current addresses for all those in EPA who had responsibility for, or involvement in, the Montana UIC program. In doing so, state the nature of each's responsibility and/or involvement.

36. Give names, titles and current addresses of all those in EPA who worked, in any way, on the Montana UIC program. In doing so, state the nature of each's work.

37. Give the names, titles and current addresses of all those who have worked, in any way, or been involved in, this proceeding and the Grace applications for a UIC permit, since June 25, 1984. In doing so, state the nature of each's work and/or involvement.

38. Has any other applicant for a UIC permit ever been in violation of the permitting requirements?

39. If your answer to the preceding interrogatory is affirmative, with respect to each such applicant,

(a) Describe the circumstances.

(b) Identify such applicant.

- (c) Identify where the violation is alleged to have occurred.
- (d) Identify when the violation is alleged to have occurred.
- (e) Describe what, if any, action was taken regarding the alleged violation.
- (f) If no action was taken regarding the alleged violation, why not?
- (g) If action was taken regarding the alleged violation, what was done and what was the result?
- (h) With regard to each incident, of an alleged violation of the UIC permitting requirements, who~~(n)~~ made the decisions on how the Government would proceed with regard to each one.

40. Have any extensions to the filing deadlines set for submitting an application for the UIC permit ever not been granted?

41. Name all applicants for UIC permits receiving extensions to the filing deadline?

42. (a) With regard to each company or individual identified in the answer to the preceding interrogatory, state when such extensions were granted.

(b) Explain, with regard to each extension grant, the circumstances which led up to the extension being granted.

(c) Who(m) made the decisions regarding an extension grant?

43. Give the name and address of a woman named Doris, referenced to at page 9 of Engle deposition.

REQUESTS FOR PRODUCTION

1. For 1983 to date, telephone memo sheets referenced to at page 11 of Engle deposition. *Nelson ✓ / v / Engle* *AL*
2. All files for each well in Montana as to which an application for the UIC permit was/will be required, such files being referenced to at page 11-12 of Engle deposition.
3. Three letters, or memos, referenced to by government counsel Donohue at page 20 of Engle deposition. *→ Can FT Park*
4. All records of the Selection Committee, referenced to at page 23 of Engle deposition. *Nelson* *→ not available*
5. EPA's files for the Montana UIC program.
6. EPA's files for the UIC program in states, other than Montana, which did not opt to have their own UIC program.
7. All records relative to how a first deadline in which an application for the UIC permit was determined in states, other than Montana, which did not opt to have their own UIC program. *Relay Record* *DO to* *for volume*
8. All records relative to the increase in the time period allowed from EPA's notification to submit an application for a UIC permit to submitting same.
9. All records relative to the forms for applying for the UIC permit.
10. All records relative to changes in the forms for applying for the UIC permit. *Nelson*

*Does the report
go to the state? If
then the commission is
was a full report
not for the report*

*Relay given questions,
not all complete*

DO to get

8/27/88

1 Jack Ramirez
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 vs.

15 GRACE PETROLEUM CORPORATION,
16 Defendant.

No. CV-86-03-GF-PGH

AFFIDAVIT OF MATTHEW P. STREVER

18 STATE OF COLORADO)
19) ss.
20 County of Jefferson)

21 MATTHEW P. STREVER, being first duly sworn, states that:
22 1. I am 24 years old and presently reside at 7410 North
23 Dakin, Apartment No. E306, Denver, Colorado 80221. I am currently
24 employed as Production Engineer for Golden Buckeye Petroleum in
25 Denver, Colorado. I have a Bachelor of Science degree in petroleum
engineering.

20-5-11-2383

DEPARTMENT OF JUSTICE	P
44 APR 29 1986	R
	D

-2

1 2. I was employed by Grace Petroleum Corporation at its
2 Denver office from May of 1984 through November of 1984. I worked
3 full time during the summer of 1984, and then part time after
4 School started in the fall. I was attending Colorado School of
5 Mines at the time.

6 3. I prepared the injection well permit applications for
7 Grace Petroleum Corporation regarding three wells, known as EPU 10-
8 XD, Goings Government #1, and Buck Elk #2, all of which are located
9 in the State of Montana.

10 4. On October 2, 1984, I prepared in my own handwriting
11 a summary of the events which had taken place in my dealings with
12 the EPA. A copy of the summary is attached as Exhibit "A" and ac-
13 curately reflects the facts.

14 5. I called Bill Engel on or before the date the EPA had
15 requested the applications to be filed and told him the permit ap-
16 plications would be a couple of days late. My summary, attached
17 as Exhibit "A", states that the call was made on Monday, July 30,
18 1984, but I cannot recall today the specific date. I cannot
19 specifically recall the exact conversation which I had with Bill
20 Engle on that occasion. It was my intention at that time, however,
21 to find out if there was any objection to the additional time. Bill
22 Engle made no objection whatsoever to the additional time. Bill
23 Engle did not suggest or say anything to make me feel that the
24 submitting of the applications in a couple of days would be a
25 problem, or would subject Grace Petroleum to any penalty, or would

1 be in any way considered late. Bill Engle did not say anything to
2 me about the need to make any further request for additional time
3 or for an extension of time. When I finished my conversation with
4 Bill Engle, I was under the impression that it was all right to
5 send the applications to the EPA in a couple of days. If I had
6 been told, or if I had received the impression from anything that
7 Bill Engle told me, that the application should be filed immediately,
8 even though not quite fully completed, I would have done so. If I
9 had been told or received the impression in my conversation with
10 Bill Engle that there would be any problem, or penalty, or conten-
11 tion that Grace Petroleum had failed to comply with the deadline,
12 I could and would have delivered the applications immediately to
13 the EPA. I took my conversation with Bill Engle to be approval of
14 an extension of time in which to send the applications to the EPA.

15 Further affiant sayeth not.

16 Dated this _____ day of March, 1986.

17
18 _____
Matthew P. Strever

19 Subscribed and sworn to before me this _____ day of
20 March, 1986.

21
22
23 (Seal)

Notary Public for the State of Colorado
Residing at _____, Colorado
My Commission expires _____

24 **CERTIFICATE OF SERVICE**

25 This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this _____
day of _____, 19____

Crowley, Haughe, Hanson,
Toole & Dietrich

By

P.O. Box 2628 - Billings, MONTANA 59108

Dealings with the EPA Concerning Injection Well Permits in the Poplar Field, Roosevelt Co. Mont.

MPS
10-2-84

I received the original letter from the EPA, on Mon. July 16, asking us to fill out injection well permit application for EPU 110XD, Goings Gov't, Buck Elk #2, Huber #1, and Huber #2. I started gathering information immediately.

I called Richard Long on Tues July 17 concerning many unclear sections on the forms. He did not return my call so I called back on Thurs. July 19. He did not return this call either. I called again on Mon. July 23; he was not available so I talked with someone else concerning my questions. They were not sure of a lot of the questions and suggested that I call Bill Engle in Montana. I talked with Bill Engle on Mon July 23 and he answered all my questions. On Mon July 30, I called Bill E. & I told him the permits would be a couple days late.
applications

On Wednesday Aug 1, well permit applications for EPU 110XD, Goings Gov't, & Buck Elk #2 (SI) (Huber #1 & #2 were found to be producers) were sent to the EPA. They were due on Mon. July 30.

On Wednesday Aug 22, received letter from EPA saying that they had received the permit applications on Aug 6th. They noted several deficiencies on the original permit applications and requested additional information not asked for on the original applications. Don Smith took over the permit applications at this point.

On Friday Sept. 7, I hand delivered the revised permit applications, along with the new information, to the EPA in Denver. The deadline had been set for Monday Sept. 10.

On Friday Sept. 28, I hand delivered the letter stating that we had shut down Goings Gov't, Buck Elk #2, and EPU 110XD on Sept. 28, 1984 as per their request.

* Note - I feel reasonably confident concerning the dates on which I called Richard Long & Bill Engle but they weren't documented.



Donehue

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
999 18th STREET—SUITE 500
DENVER, COLORADO 80202-2405

DEC 23 1987

Ref: 8RC

TO: Kathy Summerlee, LE-134S
Assistant Enforcement Counsel

ATTN: Alan Morrissey
Attorney

FROM: Alfred C. Smith *Al Smith*
Associate Regional Counsel

SUBJECT: United States of American v. Grace Petroleum
Civil Action No. CV-86-03-Gf-PGH (D. MT, Great Falls
Div).

Enclosed for the approval and signature of the Assistant Administrator for Enforcement and Compliance Monitoring is a Stipulation of Dismissal for settlement of the subject case. For the reasons set forth below, the Region recommends approval of this settlement.

1) This is a proposed civil action under Section 1423(b)(1) of the Safe Drinking Water Act (SDWA) as amended, 42 U.S.C. 300h-2(b)(1), for violations of the Underground Injection Control (UIC) program regulations set forth in 40 C.F.R. Part 144. The defendant, Grace Petroleum Corporation, is the owner/operator of three salt water injection disposal wells in the Poplar Field, Roosevelt County, Montana. Under the UIC program regulations, the underground injection of fluids is prohibited unless authorized by rule or permit. On or about July 31, 1984, Grace lost its authorization by rule to inject, nor did Grace have a valid UIC permit in effect at this time. Thereafter, for nearly 60 days, Grace continued to inject into two of its wells without authorization. On or about September 28, 1984, after several requests from the regional office, Grace ceased injecting into these wells. Subsequently, both wells were permitted by EPA.

2) The proposed settlement, in a nutshell, dismisses the case upon payment of a civil penalty in the amount of \$55,300.00. Extensive discovery failed to reveal any harm, or threat of harm to the environment from the unauthorized injection. Both wells are now permitted, so any future violation of EPA's UIC regulations will be appropriately addressed by enforcement of the permit conditions. Therefore, no injunctive relief or stipulated penalties are included in the settlement stipulation.

DEC 30 1987

LANDS DIVISION

POLLUTION PREVENTION

RECORDED

90-5-1-1-2383

3) This was the first civil judicial action to enforce EPA's UIC regulations. The defendant raised several questions concerning EPA's interpretation of its regulations, however, since the case is being settled these questions are now moot. Further, it was decided that this was not the appropriate case with which to test our regulations.

4) The proposed civil penalty of \$55,300.00 represents the gross profits from Grace's operation of the two wells over the period in question. Since the actual profit to Grace would be the gross, less payments to lessors; the recovery in this case exceeds the economic benefit of non-compliance.

5) No unusual injunctive relief is obtained by this settlement.

6) The defendant, having obtained permits for both wells, has been in compliance for over three years. No violations have been reported during this period.

7) The proposed settlement is complete. There are no outstanding issues in this case.

In accordance with the Assistant Administrator's memo - "Processing Consent Decrees" - dated September 14, 1987, I have detailed the terms of the settlement, as required therein, so as to expedite its processing.

Alan Morrissey of your staff is thoroughly familiar with this case and should be able to fill in any details. However, if you should have any questions please feel free to call me. My telephone number is FTS: 8-564-1470.

Enclosure

cc: Brian Donohue
Don Olsen
Alan Morrissey
Pat Crotty

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P. O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,) No. CV -86-03-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) STATUS REPORT
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)

21 The settlement negotiations have resulted in an agreed
22 stipulation for dismissal, which is in the process of being
23 signed and will be submitted to the Court upon execution by all
24 necessary individuals.

25 Dated this 23rd day of December, 1987.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By

James P. Sites
P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

LANDS

RECORD

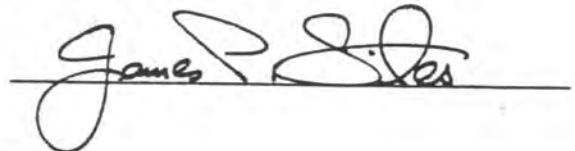
1
2 CERTIFICATE OF SERVICE

3 I hereby certify that on the 23 day of Dec., 1987,
4 I mailed a copy of the foregoing to the following counsel of
5 record:

6 F. Henry Habicht, II
7 Assistant Attorney General
8 Land & Natural Resources Division
9 United States Department of Justice
10 Washington, D.C. 20530

11 Brian G. Donohue
12 Attorney, Environmental Enforcement
13 Section
14 Land & Natural Resources Division
15 United States Department of Justice
16 Washington, D.C. 20530

17 Bryan H. Dunbar
18 United States Attorney
19 George F. Darragh, Jr.
20 Assistant United States Attorney
21 P. O. Box 3446
22 Great Falls, Montana 59403

23
24
25




90-5-1-1-2383
DTB:BGD:rab

FILE

Washington, D.C. 20530
December 21, 1987

Clerk
United States District Court
District of Montana
Great Falls Division
215 First Avenue North
Great Falls, Montana 59401

Re: United States v. Grace Petroleum Corporation,
Civil No. CV 86-003-GF-PGH

Dear Sir/Madam:


Enclosed for filing is the original and one copy of
Plaintiff's Fourth Status Report.

Thank you.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue
Attorney

Environmental Enforcement Section

cc: Jack Ramirez
George Darragh
Al Smith
Alan Morrissey

1 George Darragh
2 Assistant United States Attorney
District of Montana
3 P.O. Box 1478
Billings, Montana 59103
4
5 Brian G. Donohue
6 Environmental Enforcement Section
Land and Natural Resources Division
7 U.S. Department of Justice
10th Street and Pennsylvania Avenue, N.W.
8 Washington, D.C. 20530
(202) 633-3747

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF MONTANA
11 GREAT FALLS DIVISION
12

13 UNITED STATES OF AMERICA	)	No. CV-03-GF-PGH
Plaintiff,)	
14	)	<u>PLAINTIFF'S FOURTH</u>
vs.)	
15	)	<u>STATUS REPORT</u>
GRACE PETROLEUM CORPORATION,)	
16 Defendant.)	

17 Plaintiff, the United States of America, through undersigned
18 counsel, files this fourth status report pursuant to the Order of
19 this Court dated December 8, 1987, stating as follows:
20

21 1. The United States has previously informed this Court
22 of attempts to arrive at a settlement of this matter as well as
23 the fact that the parties have exchanged drafts of a stipulation
24 for dismissal in that regard.
25
26

1 2. The defendant has now signed the latest draft of the
2 stipulation for dismissal and has forwarded it to the Office of
3 Regional Counsel, Region VIII, U.S. Environmental Protection
4 Agency (EPA). The stipulation must now be approved by the
5 Regional Counsel for Region VIII, the Assistant Administrator for
6 Enforcement and Compliance Monitoring at EPA Headquarters in
7 Washington, D.C., and the Assistant Attorney General for the Land
8 and Natural Resources Division for the Department of Justice.

9
10 3. Undersigned counsel believes that, subject to the
11 approval of the Assistant Attorney General, a fully executed
12 stipulation of dismissal can be filed in this Court within forty-
13 five (45) days of the date of this status report.

14 Dated this 21st day of December, 1987.

15
16 Respectfully submitted,

17 BYRON DUNBAR
18 United States Attorney

19 By: George Darragh
20 George Darragh
21 Assistant United States Attorney
22 District of Montana

23 Assistant Attorney General
24 Land and Natural Resources Division

25 By: Brian G. Donohue
26 Brian G. Donohue
 Attorney
 Environmental Enforcement Section

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was caused, on this 21st day of December, 1987, to be delivered by mail, postage prepaid, to Jack Ramirez, 500 Transwestern Plaza II, P.O. Box 2529, Billings, MT 59103-2529, counsel for Grace Petroleum Corporation.



Attorney
United States of America

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LODGED

NOV 25 1987

LOU ALEKSICH, JR. CLERK

By Deputy Clerk

FILED

12/8/87
1987 DEC -3 10:05

LOU ALEKSICH, JR.

BY MARILYN A. MIDLESTADT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

GRACE PETROLEUM CORPORATION,
Defendant.

No. CV-86-03-GF-PGH

ORDER

IT IS HEREBY ORDERED that all proceedings in this action are stayed until December 24, 1987, at which time counsel for the parties shall file written statement apprising the court of the status of settlement negotiations.

Dated this 8 day of ^{December} ~~November~~, 1987.

PAUL G. HATFIELD

Paul G. Hatfield
United States District Judge

90-5-1-7-2383

41	DEPARTMENT OF JUSTICE	RECORDED
	DEC 14 1987	
	LANDS	
	LANDS DIVISION	

nohue, B

11/25/87

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P. O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 vs.
15 GRACE PETROLEUM CORPORATION,
16 Defendant.

No. CV-86-03-GF-PGH

MEMORANDUM IN SUPPORT OF
MOTION FOR EXTENSION OF
TIME TO FILE STATUS REPORT

17
18 Negotiations to settle are continuing and defendant
19 has under active consideration a proposed stipulation for
20 dismissal. However, at this time, some further time is required
21 to determine whether a settlement can be reached on the basis
22 presently proposed.

23 Dated this 25th day of November, 1978

24 CROWLEY, HAUGHEY, HANSON,
25 TOOLE & DIETRICH

By Jack Ramirez
P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

90-5-11-2383
RECORDED
NOV 30 1987
FOLLOWING ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of Nov,
1987, I mailed a copy of the foregoing to the following counsel
of record:

F. Henry Habicht, II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Brian G. Donohue
Attorney, Environmental Enforcement
Section
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Bryan H. Dunbar
United States Attorney
George F. Darragh, Jr.
Assistant United States Attorney
P. O. Box 3446
Great Falls, Montana 59403



11/23/87

Jack Ramirez
James P. Sites
Crowley, Haughey, Hanson,
Toole & Dietrich
P. O. Box 2529
Billings, Montana 59103
406-252-3441

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GRACE PETROLEUM CORPORATION,

Defendant.

No. CV-86-03-GF-PGH

MOTION FOR EXTENSION OF
TIME TO FILE STATUS REPORT

A status report is due on November 21, 1987. Settlement negotiations are continuing. Undersigned counsel for the defendant, Grace Petroleum Corporation, has been unable to reach Mr. Brian Donohue, lead trial counsel for the United States. We hope to reach him shortly and, upon doing so, will notify the court as to the present status of this matter.

Dated this 23rd day of November, 1987. 90-5-1-1-2383

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By

James P. Sites
P. O. Box 2529
Billings, Montana 59103

Attorneys for Defendant

LANDS
POLLUTION/ENFORCEMENT

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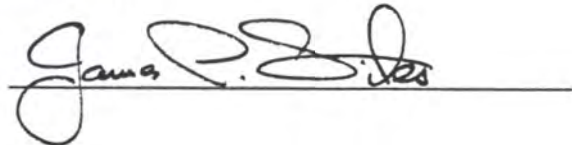
CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of November,
1987, I mailed a copy of the foregoing to the following counsel
of record:

F. Henry Habicht, II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Brian G. Donohue
Attorney, Environmental Enforcement
Section
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Bryan H. Dunbar
United States Attorney
George F. Darragh, Jr.
Assistant United States Attorney
P. O. Box 3446
Great Falls, Montana 59403



A handwritten signature, appearing to read "James R. Jones", is written over a horizontal line.



U.S. Department of Justice

FILE

90-5-1-1-2383
DTB:BGD:rab

Washington, D.C. 20530
November 20, 1987

Clerk
United States District Court
District of Montana
Great Falls Division
215 First Avenue North
Great Falls, Montana 59401

Re: United States v. Grace Petroleum Corporation,
Civil No. CV 86-003-GF-PGH

Dear Sir/Madam:

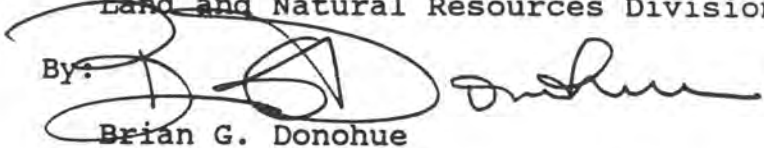
Enclosed for filing is the original and one copy of
Plaintiff's Third Status Report.

Thank you.

Sincerely,

Assistant Attorney General
~~Land and Natural Resources Division~~

By:


Brian G. Donohue
Attorney
Environmental Enforcement Section

cc: Jack Ramirez
George Darragh
Al Smith
Alan Morrissey

1 George Darragh
2 Assistant United States Attorney
District of Montana
3 P.O. Box 1478
Billings, Montana 59103
4
5 Brian G. Donohue
6 Environmental Enforcement Section
Land and Natural Resources Division
7 U.S. Department of Justice
10th Street and Pennsylvania Avenue, N.W.
8 Washington, D.C. 20530
(202) 633-3747

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF MONTANA
11 GREAT FALLS DIVISION
12

13 UNITED STATES OF AMERICA	)	No. CV-03-GF-PGH
Plaintiff,)	
14	)	<u>PLAINTIFF'S THIRD</u>
vs.)	
15	)	<u>STATUS REPORT</u>
GRACE PETROLEUM CORPORATION,)	
16 Defendant.)	

17 Plaintiff, the United States of America, through undersigned
18 counsel, files this third status report pursuant to the Order of
19 this Court dated October 21, 1987, stating as follows:
20

21 1. The United States has previously informed this Court
22 of attempts to arrive at a settlement of this matter as well as
23 the fact that the parties have exchanged drafts of a stipulation
24 for dismissal in that regard.
25
26

1 2. Shortly after the Plaintiff filed its second status
2 report on October 21, 1987, the parties again discussed the
3 language of a proposed stipulation for dismissal. Thereafter,
4 undersigned counsel, on October 28, 1987, transmitted a revised
5 stipulation to counsel for the defendant.

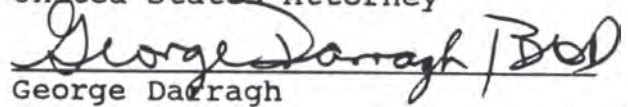
6 3. Although the United States continues to desire to
7 settle this matter, and despite attempts to reach counsel for the
8 defendant, undersigned counsel has yet to receive a response from
9 the defendant regarding the re-drafted stipulation.

10
11 Dated this 20th day of November, 1987.

12
13 Respectfully submitted,

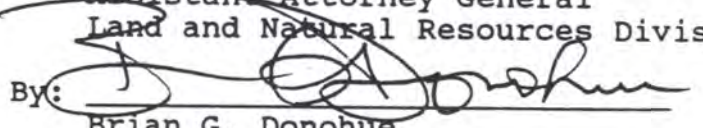
14 BYRON DUNBAR
15 United States Attorney

16 By:


17 George Darragh
18 Assistant United States Attorney
19 District of Montana

20 ~~Assistant Attorney General~~
21 ~~Land and Natural Resources Division~~

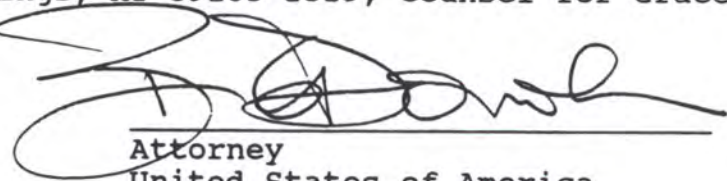
22 By:


23 Brian G. Donohue
24 Attorney
25 Environmental Enforcement Section
26

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was caused, on this 20th day of November, 1987, to be delivered by mail, postage prepaid, to Jack Ramirez, 500 Transwestern Plaza II, P.O. Box 2529, Billings, MT 59103-2529, counsel for Grace Petroleum Corporation.



Attorney
United States of America



FILE

DTB:BGD:rab
90-5-1-1-2383

Washington, D.C. 20530

October 28, 1987

Jack Ramirez, Esquire
Crowley, Haughey, Hanson,
Toole & Dietrich
500 Transwestern Plaza II
490 North 31st Street
Billings, Montana 59103-2529

Re: United States v. Grace Petroleum Corporation

Dear Jack:

Enclosed is the re-draft of the Stipulation for Dismissal which I spoke with you about today. I believe that this draft takes care of the concerns of both parties.

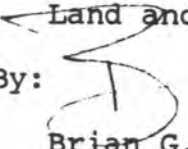
Please let me know whether the Stipulation is acceptable to your client. If so, it should be executed accordingly and then sent to Al Smith, EPA Region VIII, for processing.

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue
Attorney
Environmental Enforcement Section

cc: Alfred Smith
Alan Morrissey

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,	)	No. CV-86-003-GF-PGH
)	
Plaintiff,)	
	)	<u>STIPULATION FOR DISMISSAL</u>
vs.)	
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	

The parties, through their respective counsel, stipulate and agree that the above entitled action be dismissed, with prejudice, as fully settled upon the payment by the Defendant of \$55,300.00 in the form of a cashier's check made payable to "Treasurer, United States of America", delivered to the office of the United States Attorney for the District of Montana, P.O. Box 1478, Billings, Montana 59103.

The parties further stipulate and agree that the settlement and dismissal of this action does not constitute an adjudication, or any evidence of admission by any party, with respect to any issue of fact or law in the action.

The parties further stipulate and agree that the filing of the complaint in this action, the alleged violations which are the subject of the complaint, the amount of the settlement in this action, and the fact that this settlement was entered into, will not be used by the United States Environmental Protection Agency in any subsequent administrative or civil judicial proceeding in the calculation, determination, or assessment of any penalties against Grace Petroleum Corporation, its affiliated corporations, their agents or employees, unless such subsequent action arises out of operations at the Buck Elk #2, Goings Government #1, or EPU #110-XD underground injection wells.

UNITED STATES OF AMERICA:

Dated: _____

ROGER MARZULLA
Acting Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Dated: _____

BYRON H. DUNBAR
United States Attorney
District of Montana
P.O. Box 1478
Billings, MT 59103

Dated: _____

THOMAS L. ADAMS, JR.
Assistant Administrator
for Enforcement and Compliance
Monitoring
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dated: _____

ALFRED SMITH
Associate Regional Counsel
Office of Regional Counsel
Region VIII
Environmental Protection Agency
One Denver Place - Suite 1300
999 18th Street
Denver, CO 80202

Dated: _____

BRIAN G. DONOHUE
Attorney
Environmental Enforcement Section
Land & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

The Above Attorneys and Duly
Authorized Representatives for
Plaintiff

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

Dated: _____

By: _____
P.O. Box 2529
Billings, MT 59103-2529

Attorneys for Defendant

FILED

1987 OCT 21 PM 3:17

LOU ALEXANDER, CLERK

BY PATRICIA A. McCLURE
DEPUTY CLERK

10/21/87

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

NO. CV-86-003-GF

vs.)

GRACE PETROLEUM CORPORATION,)

O R D E R

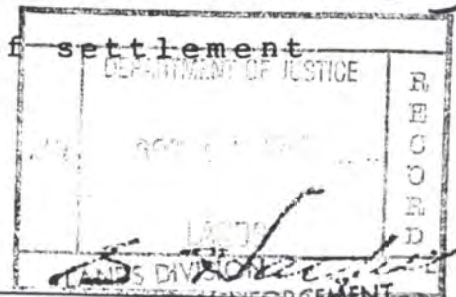
Defendant.)

Upon review of the plaintiff's second status report filed herein on October 19, 1987, and good cause appearing therefor,

IT IS HEREBY ORDERED that all proceedings in this action are stayed until November 21, 1987, at which time counsel for the parties shall file written statements apprising the court of the status of settlement negotiations.

DATED this 21st day of October, 1987.

PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE



10/21/87

FILED

1987 OCT 21 PM 3:17

LOU ALEXANDER, CLERK

BY PATRICIA B. McGUIRE
DEPUTY CLERK

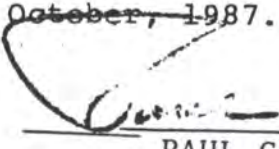
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) NO. CV-86-003-GF
vs.)
GRACE PETROLEUM CORPORATION,) ORDER
Defendant.)

Upon review of the plaintiff's second status report filed herein on October 19, 1987, and good cause appearing therefor,

IT IS HEREBY ORDERED that all proceedings in this action are stayed until November 21, 1987, at which time counsel for the parties shall file written statements apprising the court of the status of settlement negotiations.

DATED this 21st day of October, 1987.


PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE

90-5-1-12383	
DEPARTMENT OF JUSTICE	
OCT 26 1987	
LANDS DIVISION	
POLUTION/ENFORCEMENT	
RE	CORD



FILE

DTB:BGD:rab
90-5-1-1-2383

Washington, D.C. 20530

October 16, 1987

Clerk
United States District Court
District of Montana
Great Falls Division
215 First Avenue North
Great Falls, Montana 59401

Re: United States v. Grace petroleum Corporation,
Civil No. CV 86-003-GF-PGH

Dear Sir/Madam:

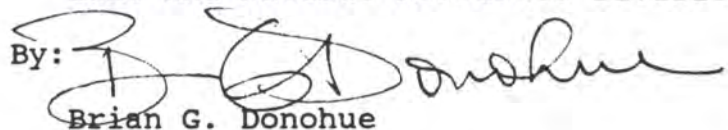
Enclosed for filing is the original and one copy of
Plaintiff's Second Status Report.

Thank You.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue
Attorney

Environmental Enforcement Section

cc: Jack Ramirez
George Darraugh
Al Smith
Alan Morrissey

George Darragh
Assistant United States Attorney
District of Montana
P.O. Box 1478
Billings, Montana 59103
(406) 761-7715

Brian G. Donohue
Environmental Enforcement Section
Land and Natural Resources Division
U.S. Department of Justice
10th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 633-5471

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA	)	No. CV-03-GF-PGH
Plaintiff,)	
vs.	)	<u>PLAINTIFF'S SECOND</u>
	)	<u>STATUS REPORT</u>
GRACE PETROLEUM CORPORATION,)	
Defendant.)	

Plaintiff, the United States of America, through undersigned counsel, files this status report pursuant to the Order of this Court dated September 17, 1987, stating as follows:

1. Pursuant to the Order of this Court dated July 9, 1987, the parties filed a joint status report on July 31, 1987, advising the Court of a tentative settlement reached by the parties. In that joint status report, the parties advised the Court that the United States was awaiting the receipt of certain

1 documentation from the defendant regarding the offer upon which
2 the tentative settlement was based.

3 2. Undersigned counsel received the promised documentation
4 on August 12, 1987.
5

6 3. Said documentation was immediately sent to Region VIII
7 and Headquarters of the United States Environmental Protection
8 Agency for review.
9

10 4. The United States found the documentation to be
11 acceptable and conveyed that message to the Defendant.
12

13 5. A draft Stipulation of Dismissal was prepared by the
14 Defendant and submitted to the United States for review and
15 comment. A re-draft of the Stipulation was then sent by the
16 United States to the Defendant on August 21, 1987.
17

18 6. Although the United States continues to desire to resolve
19 this matter, the federal government, has not yet received a
20 response from the Defendant to the August 21 re-drafted
21 Stipulation of Dismissal. Undersigned counsel understands
22 through a recent conversation with counsel for the Defendant,
23 however, that such a response should soon be forthcoming.
24

25 7. As indicated in Plaintiff's Status Report to this Court
26 dated September 8, 1987, a number of officials at Region VIII

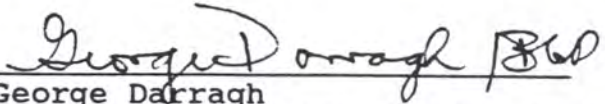
1 and Headquarters of the Environmental Protection Agency, as well
2 as at the Department of Justice, must review, approve and/or
3 sign the Stipulation of Dismissal, assuming the Defendant's
4 response to the re-drafted Stipulation is positive.

5
6 Dated this 16th day of October 1987.

7
8 Respectfully submitted,

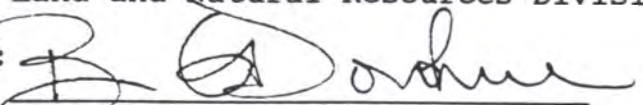
9 BYRON DUNBAR
United States Attorney

10 By:

11 
12 George Darragh
Assistant United States Attorney
District of Montana


13
14 Assistant Attorney General
Land and Natural Resources Division

15 By:

16 
17 Brian G. Donohue
Attorney
Environmental Enforcement Section

18
19 CERTIFICATE OF SERVICE

20 I hereby certify that a copy of the foregoing was caused, on
21 this 16th day of October 1987, to be delivered by mail, postage
22 prepaid, to Jack Ramirez, Esquire, 500 Transwestern Plaza II,
23 P.O. Box 2529, Billings, MT 59103-2529, counsel for Grace
24 Petroleum Corporation.

25 
26 Attorney
United States of America

9/17/87

FILED

1987 SEP 17 AM 9:38

LOU ALBERT, JR. CLERK

BY PATRICIA A. McQUIRE
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

GRACE PETROLEUM CORPORATION,)

Defendant.)

NO. CV-86-003-GF

O R D E R

Pursuant to the status report filed by the plaintiff on September 10, 1987, and good cause appearing therefor,

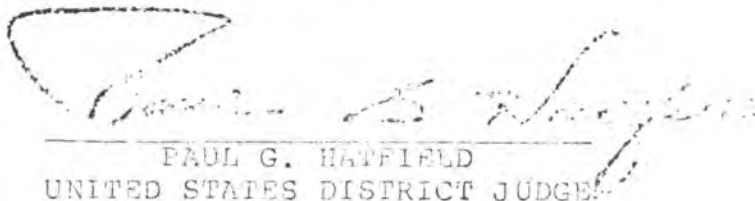
IT IS HEREBY ORDERED that plaintiff's request for additional time to effectuate settlement in this matter is granted, and all proceedings in this action are STAYED for an additional thirty (30) days. Upon the expiration of

90-5-1-1-2383

DEPARTMENT OF JUSTICE	RECEIVED
SEP 21 1987	
LANDS	
LANDS DIVISION	
POLLUTION/ENFORCEMENT	

the thirty-day period, counsel for the parties shall file written statements apprising the court of the status of settlement negotiations.

DATED this 17th day of September, 1987.



PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE



90-5-1-1-2383
DTB:BGD:rab

FILE

Washington, D.C. 20530

September 14, 1987

Jack Ramirez, Esquire
Crowley, Haughey, Hanson,
Toole & Dietrich
500 Transwestern Plaza II
490 North 31st Street
P.O. Box 2529
Billings, Montana 59103-2529

Re: United States v. Grace Petroleum Corp.

Dear Jack:

As you know, I sent to you a redraft of the Stipulation by letter of August 21, 1987. Since then, I have not heard from you. I have also telephoned on three separate occasions but to no avail. I am concerned in that I do not think the judge will feel we have been proceeding quickly enough to resolve the matter.

Thus, it would be appreciated if you would contact me at your earliest convenience so that we may discuss the case.

Thank you.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: 

Brian G. Donohue
Attorney
Environmental Enforcement Section

cc: Alfred Smith
Alan Morrissey



U.S. Department of Justice

FILE

DTB:BGD:rab
90-5-1-1-2383

Washington, D.C. 20530

August 21, 1987

Jack Ramirez, Esquire
Crowley, Haughey, Hanson,
Toole & Dietrich
500 Transwestern Plaza II
490 North 31st Street
Billings, Montana 59103-2529

Re: United States v. Grace Petroleum Corp.

Dear Jack:

Enclosed is a redraft of the Stipulation which we discussed today. I believe the language in the Stipulation addresses your concerns. Please review same and, if acceptable, attach your signature in the appropriate space.

The Stipulation should then be forwarded to Al Smith at EPA Region VIII for approval there. It will then be sent to EPA Headquarters, and ultimately to the Department of Justice, for signature.

Obviously, we will not be able to obtain all signatures by the end of the month. We should probably file another joint status report, however, in accord with the Court's recent order. We should discuss this after you review the Stipulation.

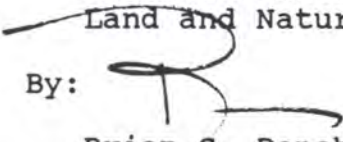
We have also not discussed the timing of the filing of the Stipulation. Obviously, the United States would not want the case dismissed prior to receiving payment. We should discuss this as well.

Thank you for your attention to this matter.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Al Smith
Alan Morrissey
George Darraugh

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IN THE UNITED STATES DISTRICT COURT

12

FOR THE DISTRICT OF MONTANA

13

GREAT FALLS DIVISION

14

15

UNITED STATES OF AMERICA,

)

No. CV-86-003-GF-PGH

)

16

Plaintiff,

)

STIPULATION FOR DISMISSAL

)

17

vs.

)

18

GRACE PETROLEUM CORPORATION,

)

)

19

Defendant.

)

20

The parties, through their respective counsel,

21

stipulate and agree that the above entitled action be dismissed,

22

with prejudice, as fully settled.

23

The parties further stipulate and agree that the

24

settlement and dismissal of this action does not constitute an

25

adjudication, or any evidence of admission by any party, with

26

respect to any issue of fact or law in the action.

The parties further stipulate and agree that the amount of the settlement in this action, as well as the fact that this settlement was entered into, will not be used by the United States Environmental Protection Agency in any subsequent administrative or civil judicial proceeding in the calculation, determination, or assessment of any penalties against Grace Petroleum Corporation, unless such subsequent action arises out of operations at the Buck Elk #2, Goings Government #1, or EPU #110-XD underground injection wells.

UNITED STATES OF AMERICA:

Dated: _____

ROGER MARZULLA
Acting Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Dated: _____

BYRON H. DUNBAR
United States Attorney
District of Montana
P.O. Box 1478
Billings, MT 59103

Dated: _____

THOMAS L. ADAMS, JR.
Assistant Administrator
for Enforcement and Compliance
Monitoring
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

1

2

Dated: _____

3

ALFRED SMITH
Assistant Regional Counsel
Office of Regional Counsel
Region VIII
Environmental Protection Agency
One Denver Place - Suite 1300
999 18th Street
Denver, CO 80202

4

5

6

7

8

Dated: _____

9

BRIAN G. DONOHUE
Attorney
Environmental Enforcement Section
Land & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

10

11

12

13

The Above Attorneys and Duly
Authorized Representatives for
Plaintiff

14

15

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

16

17 Dated: _____

By: _____
P.O. Box 2529
Billings, MT 59103-2529

18

19

Attorneys for Defendant

20

21

22

23

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26

FILED

1986 SEP -4 PM 3:46

LOU ALEKSI, JR. CLERK

BY RENATE WELDELE
DEPUTY CLERK

9/4/87

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

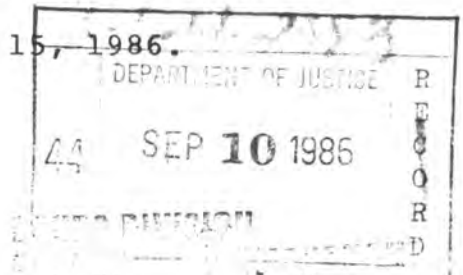
UNITED STATES OF AMERICA,)
 Plaintiff,) NO. CV-86-003-GF
 vs.)
GRACE PETROLEUM CORPORATION,)
 Defendant.) O R D E R

Upon motion of the defendant, and the plaintiff concurring therein,

IT IS HEREBY ORDERED that the discovery schedule entered by the court in its order of April 23, 1986, is VACATED, and the deadlines are extended as set out below.

IT IS FURTHER ORDERED that the parties shall adhere to the following schedule designed for the timely and orderly disposition of this matter:

1. All motions for leave to amend the pleadings, including such motions designed to join additional parties, shall be filed on or before October 15, 1986.



2. All discovery shall be completed on or before January 30, 1987. With respect to the specific methods of discovery the parties shall:

a. Serve all requests for admissions on or before December 30, 1986. The party upon whom the requests are served shall have the time specified by Rule 36(a), Federal Rules of Civil Procedure, within which to serve answers or objections addressed to the matters in the requests for admission.

b. Serve all requests for production of documents on or before December 30, 1986. The party upon whom the requests are served shall have the time specified by Rule 34(b), Federal Rules of Civil Procedure, within which to serve a response or objection to the request.

c. Serve all interrogatories on or before December 30, 1986. The party upon whom the interrogatories are served shall have the time specified by Rule 33(a), Federal Rules of Civil Procedure, within which to serve answers to the interrogatories. If some interrogatories cannot be answered within that time, a reason shall be stated for the failure to so answer.

The present order regarding interrogatories contemplates inclusion of answers supplementing previously answered interrogatories. In that regard, the court is particularly concerned with complete disclosure of the identity of expert witnesses. The intent of the present deadline, inter alia, is to insure that the parties fully

respond to all interrogatories regarding expert witnesses by the date set forth.

d. The identity of each person expected to be called as a witness shall be disclosed on or before December 15, 1986.

e. Notice all depositions to be taken on or before January 16, 1987. Said notice shall be served upon all other parties at least ten (10) days in advance of the date scheduled for a deposition. All depositions, including depositions for the perpetuation of testimony, are to be taken on or before January 30, 1987.

3. Attend an attorneys' pretrial conference, to be convened by counsel for the plaintiff, for the purpose of assisting counsel in the preparation of a pretrial order, on or before February 13, 1987.

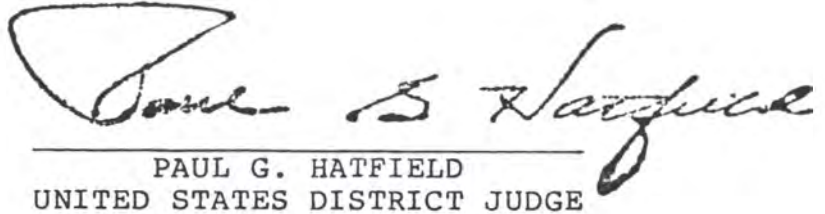
4. File a pretrial order, prepared in accordance with Rule 235-6 of the rules of this court, on or before February 27, 1987.

5. File all motions on or before February 27, 1987. If the court determines that a hearing on said motion is necessary, the court will schedule a hearing and notify the parties accordingly.

IT IS FURTHER ORDERED that the foregoing schedule shall not be modified without leave of court upon a showing of good cause. ANY MOTION SEEKING LEAVE TO MODIFY THE DISCOVERY SCHEDULE SHALL BE ACCOMPANIED BY AN AFFIDAVIT OF COUNSEL FOR THE MOVING PARTY STATING THE

REASONS FOR SUCH MODIFICATION. IN ADDITION, THE MOTION SHALL BE ACCOMPANIED BY A WRITTEN STIPULATION OF COUNSEL FOR ALL PARTIES IF THERE EXISTS A CONSENSUS ON THE NEED FOR SUCH MODIFICATION, OR OTHERWISE STATE WHICH PARTIES OBJECT TO SUCH MODIFICATION.

DATED this 4th day of September, 1987.



PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE

B Drobac

8/10/87.

100-5-1-1-2383

Marlyn Blads

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) NO. CV-86-003-GF
vs.)
GRACE PETROLEUM CORPORATION,)
Defendant.)
ORDER

Upon advise of counsel that settlement of the present controversy appears imminent, the court deems it advisable to STAY proceedings in this action for a period of thirty (30) days to allow the parties time to effectuate settlement. Upon the expiration of the thirty-day stay period, counsel for the parties shall file written statements apprising the court of the status of settlement negotiations.

IT IS SO ORDERED.

DATED this 10th day of August, 1987.

Paul G. Hatfield

PAUL G. HATFIELD
UNITED STATES DISTRICT COURT
LANDS DIVISION
POLLUTION/ENFORCEMENT

90-5-1-1-2383	
DEPARTMENT OF JUSTICE	
41	AUG 12 1987
LANDS	
<i>Paul G. Hatfield</i>	
RECORD	

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
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SHARON NOVAK
ERIC K. ANDERSON
BRUCE A. FREDRICKSON
JEFFREY W. HEDGER
JOHN E. BOHYER
JANICE L. REHBERG

August 7, 1987

Mr. Brian G. Donohue
Attorney
Environmental Enforcement Section
Land & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Re: Grace Petroleum Corporation
vs. United States, Civil Action No. 86-03-GF-PGH
(D. Montana.)

Dear Brian:

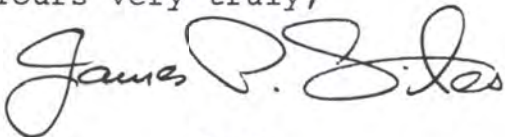
Enclosed for your consideration in the above-captioned is the Stipulation For Dismissal and Affidavit of Messrs. Dowell and Coffia.

Upon your consideration, we shall expect to hear from you.

After receipt here of the Stipulation For Dismissal fully signed, we will submit it to the Court with a proposed Order. The proposed Order will incorporate the terms of the Stipulation.

Thank you for your continuing cooperation.

Yours very truly,



JAMES P. SITES

Enc: 1. Stipulation For Dismissal
2. Affidavit Of Kenneth H. Dowell
and Bob J. Coffia

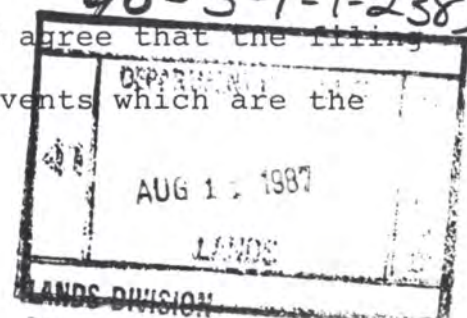
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8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF MONTANA
11 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,) No. CV-86-03-GF-PGH
13 Plaintiff,)
14 vs.) STIPULATION FOR DISMISSAL
15 GRACE PETROLEUM CORPORATION,)
16 Defendant.)

17
18 The parties, through their respective counsel, stipulate
19 and agree that the above entitled action be dismissed, with
20 prejudice, as fully settled.

21 The parties further stipulate and agree that the
22 settlement and dismissal of this action does not constitute an
23 adjudication, or any evidence or admission by any party, with
24 respect to any issue of fact or law in the action.

25 The parties further stipulate and agree that the filing
of the complaint in this action, the events which are the



1 subject of the complaint, and the settlement of the
2 controversy will not be used by the United States, or any
3 agency thereof, in the calculation, determination, or
4 assessment of any penalties, under any current or future
5 policies pertaining to civil or other penalties, in regard to
6 any subsequent complaint, notice of violation, warning letter,
7 citation, suit, proceeding, or enforcement action against
8 Grace Petroleum Corporation, its parent, sister or subsidiary
9 corporations, their agents or employees, arising out of
10 similar or dissimilar occurrences, should any occur. The
11 purpose of this stipulation is to ensure that the events and
12 violations alleged by the United States and its Environmental
13 Protection Agency which are the subject of the complaint, and
14 which are strongly disputed and denied by Grace Petroleum
15 Corporation, will in no way hereafter be used to the prejudice
16 of Grace Petroleum Corporation, its parent, sister or
17 subsidiary corporations, their agents or employees, in
18 imposing a penalty in any other controversies or proceedings
19 between the United States government and the Grace companies.

20 UNITED STATES OF AMERICA:

21 Dated: _____

22 _____
23 ROGER MARZULLA
24 Acting Assistant Attorney General
25 Land and Natural Resources
Division
U.S. Department of Justice
Washington, D.C. 20530

1
2 Dated: _____

BYRON H. DUNBAR
United States Attorney
District of Montana
P.O. Box 1478
Billings, MT 59103

3
4
5 Dated: _____

THOMAS L. ADAMS, JR.
Assistant Administrator
for Enforcement and Compliance
Monitoring
Environmental Protection Agency
401 M Street, S.W.,
Washington, D.C. 20460

6
7
8
9 Dated: _____

ALFRED SMITH
Assistant Regional Counsel
Office of Regional Counsel
Region VIII
Environmental Protection Agency
One Denver Place - Suite 1300
999 - 18th Street
Denver, CO 80202

10
11
12
13
14 Dated: _____

BRIAN G. DONOHUE
Attorney
Environmental Enforcement Section
Land & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

15
16
17
18
19 The Above Attorneys and Duly
Authorized Representatives for
Plaintiff

20
21 CROWLEY, HAUGHEY, HANSON,
22 TOOLE & DIETRICH

23 Dated: _____

By: _____
P.O. Box 2529
Billings, MT 59103-2529

24
25 Attorneys for Defendant

AFFIDAVIT OF KENNETH H. DOWELL
AND BOB J. COFFIA

STATE OF OKLAHOMA)
) ss.
County of Ok/ahoma)

KENNETH H. DOWELL and BOB J. COFFIA, being first duly sworn, depose and state that:

1. Kenneth H. Dowell is the Denver District Operations Manager, and Bob J. Coffia is the Manager of Security and Regulatory Affairs, for Grace Petroleum Corporation.

2. In a settlement conference held on June 10, 1987, in Washington, D.C., the Expense and Profit/(Loss) Analysis attached hereto as Exhibit "A" was furnished by Grace Petroleum Corporation to the United States for purposes of showing the profit or "cash margin net" from oil production using the injection wells which are the subject of the suit in case No. CV-86-03-GF-PGH, pending in the United States District Court for the District of Montana.

3. In connection with settlement negotiations arising from the conference, the United States asked Grace Petroleum Corporation for an affidavit confirming that Grace had not received a profit or cash margin net of more than \$55,000 for the months of August and September of 1984, resulting from oil production using the wells in question .

4. The undersigned were requested to verify the profit or cash margin net for the subject Poplar Field leases and have

therefore carefully reviewed Exhibit "A" and other pertinent accounting data of Grace.

5. Based upon the review of the information, the undersigned state that the profit or cash margin net for Grace Petroleum Corporation for oil production using injection wells which are the subject of the suit in question was:

August, 1984	\$26,933.49
September, 1984	22,760.32
Total	<u>\$49,693.81</u>

6. The figures determined by the undersigned differ from those contained in Exhibit "A" for two reasons. First, typographical errors were found in the original data sheet, Exhibit "A", and the errors have been corrected. The only error of any significance was in regard to the Goings #1-10 lease for September in which the working interest profit of \$1,059.19 should have been \$7,059.19. Second, the original information did not include certain credits for 1983 windfall profits tax refunds allocated to the months of August and September, 1984, as well as certain debits against revenue in August and September due to the allocated credits. Taking the typographical errors and the windfall profits tax adjustments into account resulted in the corrected figure of \$49,693.81. The corrected analysis is attached as Exhibit "B". The revenue adjustments for 1983 windfall profits tax are shown on Exhibit "C". The identities of the owners of the working interests are shown on Exhibit "D".

7. The data contained in Exhibits "B", "C", and "D" are true and correct, having been derived by acceptable accounting principles, to the best of our knowledge, information and belief.

Dated this 28th day of July, 1987.

Kenneth H. Dowell
Kenneth H. Dowell

Bob J. Coffia
Bob J. Coffia

Subscribed and sworn to before me this 28th day of July, 1987.

(Seal)

Mildred B. Janner
Notary Public for the State of Oklahoma
Residing at Oklahoma, Oklahoma
My Commission expires 1-31-90



FILE

DTB:BGD:1mt
90-5-1-1-2383

Washington, D.C. 20530

April 22, 1986

Clerk
United States District Court
District of Montana
Great Falls Division
P. O. Box 2186
Great Falls, Montana 59403

Re: United States v. Grace Petroleum Corp.,
Civil No. CV. 86-003-GF

Dear Sir/Madam:

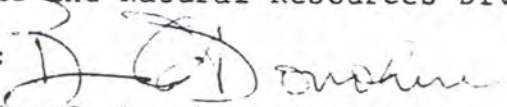
Enclosed for filing is the original and two copies of the United States' motion to strike demand for jury trial, and supporting memorandum.

Thank you for your assistance.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Jack Ramirez
George Darragh, Jr.
Al Smith
Alan Morrissey

1 F. HENRY HABICHT II
Assistant Attorney General
2
BRIAN G. DONOHUE
3 Attorney, Environmental Enforcement Section
Land & Natural Resources Division
4 United States Department of Justice
Washington, DC 20530
5
BYRON H. DUNBAR
6 United States Attorney
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GEORGE F. DARRAGH, JR.
Assistant United States Attorney
8 P.O. Box 3446
Great Falls, MT 59403
9 Attorneys for United States of America

10
11 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
12 GREAT FALLS DIVISION

13
14 UNITED STATES OF AMERICA,)
15 Plaintiff,) Civil Action No. CV-86-003-GF
16 v.)
17 GRACE PETROLEUM CORPORATION,)
18 Defendant.)

19 MOTION TO STRIKE DEMAND FOR
20 JURY TRIAL


21 In its answer, the Defendant, Grace Petroleum Corporation,
22 demanded trial by jury. Plaintiff, United States of America hereby
23 respectfully moves pursuant to Rule 39(a)(2) of the Federal Rules
24
25
26

1 of Civil Procedure to strike this jury demand. This motion is
2 supported by the memorandum of law attached hereto.

3 Respectfully submitted,

4 
5

6 BRIAN G. DONOHUE, Attorney
7 Environmental Enforcement Section
8 Land and Natural Resources Division
9 Department of Justice
10 Washington, D.C. 20530
11 (202) 633-5590

12 
13 GEORGE DARRAGH, JR.
14 Assistant United States Attorney
15 212 Federal Bldg.
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17 Great Falls, MT 59403

1 F. HENRY HABICHT II
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Attorney, Environmental Enforcement Section
Land & Natural Resources Division
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Washington, DC 20530
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P.O. Box 3446
Great Falls, MT 59403
9 Attorneys for United States of America

10
11 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
12 GREAT FALLS DIVISION

13 UNITED STATES OF AMERICA,)
14)
Plaintiff,)
15 v.) Civil Action No. CV-86-003-GF
16 GRACE PETROLEUM CORPORATION,)
17)
Defendant.)
18

19 MEMORANDUM IN SUPPORT OF MOTION BY UNITED STATES
20 OF AMERICA TO STRIKE JURY TRIAL DEMAND

21 PRELIMINARY STATEMENT

22 The United States requests this Court to enter an order
23 striking the jury trial demand of defendant Grace Petroleum
24 Corporation (hereinafter, "Grace").
25
26

1 In this action, the United States is suing Grace pursuant
2 to Section 1423 of the Safe Drinking Water Act ("SDWA"), 42 U.S.C.
3 § 300h-2, seeking equitable injunctive relief and civil penalties
4 for violations of the SDWA.

5 SUMMARY OF ARGUMENT

6 Neither the SDWA nor the Seventh Amendment requires a
7 trial by jury in this action. In addition, several courts have
8 held that civil enforcement actions under environmental statutes
9 do not trigger any requirement for trial by jury. Consequently,
10 in this action, where the United States is seeking civil penalties
11 as well as injunctive relief for violations of the SDWA, no right
12 to a jury trial is triggered.

13 ARGUMENT

14 Whether a litigant has a right to a jury trial in a
15 federal district court is determined in the first instance by Rule
16 38(a), Federal Rules of Civil Procedure. Under Rule 38(a), a jury
17 trial is to be afforded as a matter of right only where one is
18 required under either a statute or the Seventh Amendment of the
19 United States Constitution:

- 20 a. Right Preserved. The right of trial by jury as
21 declared by the Seventh Amendment to the Constitu-
22 tion or as given by a statute of the United States
23 shall be preserved to the parties inviolate.

24 Fed. R. Civ. P. 38(a).

25 However, the applicable provision of the SDWA under which
26 this action is brought, Section 1423, 42 U.S.C. § 300h-2, does
not provide for trial by jury. Section 1423 reveals no express or

1 implicit congressional intent to grant a jury trial to a defendant.
2 In fact, the specific language of Section 1423(b)(1) states that,
3 "the court may enter such judgment as protection of public health
4 may require, including ... the imposition of a civil penalty ...".
5 Section 1423 of the Act thus allocates to the "court" the authority
6 to order injunctive relief or enter a civil penalty for violations
7 of the SDWA. Use of the word "court" in connection with the deter-
8 mination of the amount of relief in a statute is generally construed
9 to refer to the authority of a judge and not of a jury. E.g.,
10 Grayson v. Wickes Corp., 607 F. 2d 1194, 1196 (7th Cir. 1979).

11 Similarly, the Seventh Amendment's jury trial provisions
12 do not apply in this case.

13 The Seventh Amendment states, in pertinent part, that
14 "[i]n suits at common law, where the value in controversy shall
15 exceed twenty dollars, the right of trial by jury shall be
16 preserved" U.S. Const. Amend. VII. This right applies to
17 actions in which legal rights are to be ascertained. E.g., Parsons
18 v. Bedford, 28 U.S. 433, 445-448 (1890). "A 'legal' right
19 is one that is enforceable in an action for damages in the ordinary
20 courts of law...", Curtis v. Loether, 415 U.S. 189, 194 (1974),
21 and one which existed at common law when the Amendment was adopted.
22 Atlas Roofing Co. v. OSHRC, 430 U.S. 442, 459 (1977); NLRB v. Jones
23 & Laughlin Steel Corp., 301 U.S. 188 (1937); United States v. Tull,
24 769 F.2d 182 (4th Cir. 1985). Where actions do not involve such
25 legal rights and remedies, the constitutional guarantee does not
26 apply. United States v. Louisiana, 339 U.S. 699, 706 (1950).

1 This is so even if a potential award is solely for monetary relief.
2 Curtis v. Loether, supra; Grayson v. Wickes Corp., supra at 1196.

3 Thus, the specific issue before this Court is whether a
4 claim for civil penalties 1/ under the SDWA is legal in nature.
5 There is no case authority regarding this issue under the SDWA.
6 However, by analogy, such authority is present under other federal
7 statutes.

8 For example, in Atlas Roofing Co., Inc. v. OSHRC, 430
9 U.S. 442 (1976), a unanimous Court held that an employer was not
10 entitled to a jury trial under the Occupational Safety and Health
11 Act of 1970, 29 U.S.C. § 651, et seq. Under that statute, the
12 federal government, proceeding before an administrative agency,
13 can obtain an abatement order requiring an employer to correct
14 unsafe working conditions and an order imposing a civil penalty for
15 maintaining any unsafe working conditions. The Supreme Court held
16 that Congress has the constitutional power to entrust the decision
17 whether to extract a penalty "in cases in which 'public rights' are
18 being litigated - e.g., a case in which the government sues in its
19 sovereign capacity to enforce public rights created by statutes
20 within the power of Congress to enact..." to a fact-finder other
21 than a jury. 430 U.S. at 455. The Atlas Roofing court stated that
22 "the mode of determining matters of this class is completely within
23 Congressional control." 430 U.S. at 452 (quoting Crowell v. Benson,

24 1/ The United States' demand for injunctive relief is clearly
25 equitable in nature. See, e.g., United States v. Louisiana, 339
26 U.S. 699 (1950); United States v. Ferro Corp., 23 E.R.C. 2052 (M.D.
La., Jan. 23, 1986).

1 285 U.S. 22. The Court thus makes a clear distinction between
2 traditional cases involving damages and those involving public
3 rights under newly created federal statutes. See also, Curtis v.
4 Loether, supra, wherein the Supreme Court distinguishes between a
5 suit involving damages sounding in tort under Title VIII of the
6 Civil Rights Act of 1968 and an action for reinstatement and
7 back pay under Title VIII of the same Act.

8 Atlas Roofing has been relied upon by a number of different
9 courts when considering the right to a jury trial under federal
10 environmental statutes similar to the SDWA. For example, courts
11 have consistently found that no right to a jury trial exists under
12 the Clean Water Act. United States v. Tull, 769 F.2d 182 (4th Cir.
13 1985) cert. granted _____ U.S. _____; United States v. MCC of
14 Florida, Inc., 772 F.2d 1501, reh den. 778 F.2d 793 (11th Cir. 1985);
15 cert. granted _____ U.S. _____; United States v. Ferro Corp., 23
16 E.R.C. 2052 (M. D. La., Jan. 23, 1986) (attached); United States v.
17 Lambert, 19 E.R.C. 1055 (M.D. Fla., Feb. 28, 1983) (attached); United
18 States v. Cochran, No. N84-0153C (E.D. Mo. July 2, 1985) (attached).

19 In United States v. Lambert, supra, the court listed three
20 factors to be utilized to determine if a civil penalty amounted to
21 a "legal" damage remedy: 1) whether there is a private versus a
22 public recipient of the award; 2) whether the amount of the award
23 is left in the court's discretion and is not linked to any injury;
24 and 3) whether the purpose of the award is deterrence. Each of
25 these factors was utilized by the courts in United States v. Tull,
26 supra; United States v. Ferro Corp., supra; and United States v.

1 Cochran, supra. All agreed that no jury trial right exists under
2 the Clean Water Act.

3 Recent decisions under the Clean Air Act are in accord,
4 see United States v. Armor Mufflers, Inc., No. 82-2272 (W.D. Ark.,
5 Oct. 4, 1984) (attached), United States v. Robinson, No. 3-84-1606-H
6 (N.D. Tex., Feb. 25, 1985) (attached); United States v. N-REN Corp.,
7 No. 84-0675-JB Mex, Feb. 25, 1985), as are those under the Compre-
8 hensive Environmental Response, Compensation and Liability Act, see
9 United States v. Wade, No. 79-1426 (E.D. Pa., Feb. 21, 1984)
10 (attached); United States v. Georgehoff, No. 83-1656A (N.D. Ohio,
11 Aug. 2, 1984) (attached).

12 The SDWA, when viewed in light of the overwhelming case
13 authority noted above, does not provides for a jury trial.

14 First, the SDWA is a newly created federal statute
15 providing for relief unknown at common law. Second, no provision
16 is made in the statute for a jury trial, and the legislative history
17 does not indicate any intent to provide for trial by jury. Third,
18 the civil penalty called for under the statute is not a traditional
19 "damage" remedy, because any such award will be paid to the United
20 States Treasury, not a private citizen or group; the amount of the
21 penalty is completely within this court's discretion; the amount of
22 a penalty is unrelated to an injury; and finally, the purpose of
23 the award is to deter further violations of the SDWA by Grace or
24 others.


25 Clearly, a civil penalty claim, especially when coupled
26 with a claim for injunctive relief, is not "legal" in nature. An

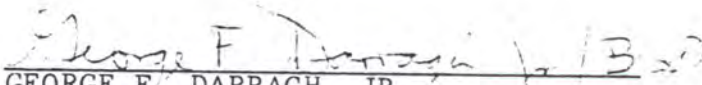
1 overwhelming number of courts have so held under other federal
2 statutes. The result should be no different under the similar
3 statutory scheme of the SDWA. Therefore, Grace is not entitled to
4 a jury trial.

5
6 Conclusion

7 For the foregoing reasons, the United States' motion to
8 strike Grace's demand for a jury trial should be granted.


9 Respectfully submitted,

10 
11 BRIAN G. DONOHUE, Attorney
12 Environmental Enforcement Section
13 Land and Natural Resources Division
14 Department of Justice
Washington, D.C. 20530
(202) 633-5590

15 
16 GEORGE F. DARRAGH, JR.
17 Assistant United States Attorney
212 Federal Building
18 P. O. Box 3446
Great Falls, MT 59403

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Motion to Strike Demand for Jury Trial, and supporting Memorandum, to be mailed, postage prepaid, to counsel for Grace Petroleum Corporation, on this 22nd day of April, 1986.


Attorney for the United
State of America

Concise

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

JAMES M. HAUGHEY
NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
THOMAS N. KELLEY
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CALE CROWLEY
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MICHAEL B. EVANS
MARY S. YERGER
JON T. DYRE
DENNIS HETTIKSIMMONS
MICHAEL C. WALLER
SHARON NOVAK

April 22, 1986

Mr. Brian G. Donohue
Trial Attorney
Environmental Enforcement Section
Land & Natural Resources Division
U. S. Department of Justice
Washington, D.C. 20530

Re: U. S. vs. Grace Petroleum Company
Our File 41-175-13

Dear Brian:

Please forgive me for the delay in getting the enclosed material to you.

The information you requested concerned the amount of water injected into Goings Government #1 and EPU 110-XD during August and September of 1984. The BLM form # 9-329, Monthly Report of Operations, and Montana Form # 5, Report of Subsurface Injections, show the following:

	<u>Goings Gov't #2</u>	<u>EPU 110-XD</u>
August	49,406 bbls.	51,870 bbls.
September	46,381 bbls.	53,790 bbls.
	<hr/>	<hr/>
Total	95,787 bbls.	105,660 bbls.
Total Water Injection	201,447 bbls.	

To determine the cost of hauling and injection, Grace performed a review of the water hauling invoices received from Strauser Oil Well Operating Service of Poplar, Montana. Strauser transported all of the water produced during the period from October of 1984 through May of 1985. The month, volume hauled, and hauling costs are shown below and should be reflected on the attached invoices.

20-5-1-1-2383
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<u>Month/Volume Hauled</u>	<u>Hauling Costs/Month</u>	<u>Avg. Cost/Barrel</u>
Oct. 14,244 bbls.	\$ 9,956.55	Cost per barrel varied with each load hauled. The overall cost is calculated at \$0.699/bbl
Nov. 17,899	12,511.40	
Dec. 18,067	12,618.83	
Jan. 16,120	11,267.88	
Feb. 12,350	8,632.65	
Mar. 13,800	9,646.20	
Apr. 15,265	10,670.35	
May 8,695	6,077.80	
<hr/>		
Total 116,440	\$81,391.67	

The invoices received from Century Oil and Gas Corporation, the company which did the actual injection, reveal the following:

<u>Month/Volume Disposed</u>	<u>Cost/Barrel</u>	<u>Invoiced Cost/Month</u>
Oct. 13,574	\$ 0.50	\$ 6,787.00
Nov. 16,964	"	8,482.00
Dec. 18,547	"	9,273.50
Jan. 15,270	"	7,635.00
Feb. 11,650	"	5,825.00
Mar. 13,500	"	6,750.00
Apr. 15,365	"	7,682.50
May. 10,410	"	5,205.00
<hr/>		
115,280		\$57,640.00

Based upon these costs, it appears that the total cost of hauling and disposal amounted to \$1.199 per barrel.

There are some differences that should be noted. First, the Strauser invoices indicate 116,440 barrels were hauled, while the Century invoices reflect that 115,280 barrels were injected. This difference is considered by Grace to be within the range of measurement accuracy. On the other hand, the reports of production submitted to the Montana Board of Oil & Gas Conservation show a total of 159,587 barrels of water produced by the various wells. Around 43,000 more barrels were reported than were actually disposed of by Century. This difference is probably based upon the manner in which water volumes were estimated by Grace. Prior to curtailment of injection into the Goings and EPU disposal wells, water from all the producing wells was piped to and metered collectively during injection. Produced water was allocated back to each well on the basis of the oil-water ratio determined by well tests carried out on a monthly

basis. This resulted in a higher volume of water being reported to the State than was actually injected during those eight months. It is probable that similar over-estimation is contained in the reports made for August and September of 1984.

The reports to the BLM, as indicated above, show a total of 201,447 barrels injected in Goings Government #1 and EPU 110-XD for the months of August and September, 1984. If these estimates were as high as would be indicated from the actual measurement of water injected between October of 1984 and May of 1985, then the range of water produced would be from approximately 146,982 barrels to 201,447 barrels. Applying the disposal and injection costs of \$1.199, the estimated cost to Grace under this hypothetical situation would have been between \$176,231 to \$241,535. These figures do not necessarily reflect what would have actually occurred in that period had injection ceased.

If you have any questions about this data, please let me know.

Very truly yours,


Jack Ramirez

JR:lm

Enc.

POPLAR FIELD OIL PRODUCTION

JUNE 1984 THROUGH SEPTEMBER 1985

LEASE	6/84	7/84	8/84	9/84	10/84	11/84	12/84	1/85	2/85	3/85	4/85	5/85	6/85	7/85	8/85	9/85
BAKER-COULTER	108	133	149	149	156	171	144	168	153	165	117	0	3	3	9	0
BUCK ELK #1	145	147	148	126	1	3	3	3	3	3	3	3	75	138	108	126
COWAN-WESTERN	237	104	294	233	239	234	240	204	231	204	234	198	237	228	222	210
GOINGS GOV'T 1-10	336	361	558	428	419	435	372	423	423	426	411	372	204	258	411	366
CUT-HAIR	376	379	373	330	5	3	0	0	3	3	30	6	423	384	348	390
IRON BEAR 2 & 4	359	752	897	634	17	3	3	3	3	3	3	6	735	903	936	813
RICHARDS 1-3	395	400	348	354	317	360	150	261	222	261	144	339	342	357	399	375
RICHARDS 2-1	172	170	150	170	51	12	63	120	96	111	63	144	147	153	171	159
WAR CLUB 1-R					0	255	630	882	975	897	762	510	975	876	858	837
WAR CLUB #2	235	397	371	370	1	3	3	3	3	3	3	174	816	681	609	555
ZIMMERMAN	515	495	496	450	486	480	327	6	3	6	312	132	567	810	615	621
HUBER #(D)	170	246	185	225	2	3	3	3	3	3	3	3	3	3	3	3
HUBER 1-2-4 (M)	662	637	788	634	565	429	24	3	3	3	3	3	3	3	33	27
REID 10-1	112	127	119	114	128	129	129	126	123	126	120	117	132	129	117	117
TOTALS	3822	4474	4876	4217	2387	2520	2091	2205	2244	2214	2208	2007	4662	4926	4839	4599

PRODUCTION BEFORE (JUNE THRU SEPTEMBER 1984) AND AFTER (JUNE THRU SEPTEMBER 1985) DISPOSAL WELLS SHUT IN = 36,415 BARRELS
 PRODUCTION DURING SHUT IN PERIOD = 17,876 BARRELS
 LOSS PRODUCTION EXPERIENCE DURING SHUT IN PERIOD = 51%

61-3098

SOLD TO

SHIP
TO

Buck Elk S/WD

Lakewood, CO 80228

ORDER NO.

DATE SHIPPED

SHIPPED VIA

TERMS

SALESMAN

F.O.B.	
--------	--

OUR ORDER NO.

Oct.

Water hauling

\$140.00 per br.

Bobby

UNIT PRICE

AMOUNT

ENTITY

DESCRIPTION

23-84

20 Bbls from Buck Elk to Vickers, Cleaned out cellar
~~60 Bbls to fill mud tank 4 hrs. R# 5425~~

\$ 160 | 00

25-94

Sucked out cellar while changing out tubing 4½ hrs.
R# 5382

120 : 00

Total Inv. # 13098

RECEIVED

PRODUCTION

12:10

JAN 02

11390--016

Capitol AFE ☐ No

Expense A/E ☐ No

Approved [Signature]

8501-818

\$ 340 | 00

INV 764-3

20

RECEIVED BY

No. 5425

20 bbls Net Invoice @ hr. \$40

第2.

COMPANY		D D		VENDOR OWNER AFE	PROPERTY FACILITY	W A	LEASE NUMBER		SERV CODE	DISCOUNT	NET AMOUNT									
LINE NUMBER	ACCOUNT NUMBER																			
10	17	16	17	18	19	20	23	24	28	29	33	37	36	39	40	42	80	87	88	96
										34000										
										30030										
										34000										

"n" POH 48 parted, "pda. Body thread on 82.74" 1/8"
T.O. Picked 1/8" up 1"

STRAUSER OIL WELL OPERATING SERVICE
WILLIAM D. STRAUSER
 Box 583 Ph. 406-768-3325
 Poplar, Montana 59255

INVOICE

013102

8501-821

RECEIVED 11-31-84

SOLD TO

Grace Petroleum Corporation

143 Union Blvd.

Lakewood, CO 80228

PRODUCT

Denver

JAN 02

Trop

Capital

AFE

Expense

AFE

TERMS

Approved

11-27-84

340.00

NorthWest Poplar Field

CUST. ORDER NO.

DATE SHIPPED

SHIPPED VIA

water hauling

F.O.B.

OUR ORDER NO.

QUANTITY

DESCRIPTION

UNIT PRICE

AMOUNT

10-20-84

500 Bbls from NW to Goings SWD 8½ hrs. R# 5346

\$ 340 00

10-21-84

300 Bbls from pit to Vickers SWD, 100 to Goings SWD 7 hrs. R# 5416

280 00

10-22-84

200 Bbls from pit to Goings SWD, 200 to Vickers SWD 7 hrs. R# 5423

280 00

10-22-84

200 Bbls to Vickers SWD 3½ hrs. R# 5356

140 00

10-23-84

200 Bbls to Goings SWD, 400 to Vickers SWD 10 hrs. #5357

400 00

10-23-84

400 Bbls from pit to Vickers SWD 7 hrs. R# 5424

280 00

10-25-84

300 Bbls from pit to Vickers SWD 5 hrs. R# 5383

200 00

10-26-84

300 Bbls from pit to Vickers SWD 5 hrs. R# 5385

200 00

10-27-84

500 Bbls from NW Field to Goings SWD, 50 to Mud tank ½ hrs. to pull out rig at War Club 9 hrs. R# 5367

360 00

10-28-84

200 Bbls to Vickers SWD, 100 to Goings SWD 5 hrs. R# 5368

200 00

10-29-84

200 Bbls to Goings SWD 3½ hrs. R# 5390

140 00

10-31-84

200 Bbls to Vickers SWD 3½ hrs. R# 5398

140 00

Total Inv. # 13102

\$ 2960 00

INV 764-3

0.4734

No. 5346

RECEIVED BY

[Signature]

Poplar, Montana 59255

INVOICE

013099

DATE: 11-3-84

SOLD TO

Grace Petroleum Corporation

143 Union Blvd.

Lakewood, CO 80228

JANU 8
37864 -016

SHIP TO

EFU 1-10 SWD

ST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	\$40.00 per hr.			
QUANTITY	DESCRIPTION				UNIT PRICE	AMOUNT
0-29-84	100 Bbls from Huber to test tank, standby while pulling tubing 5 hrs. R# 5391				\$200 00	✓
0-30-84	Standby with vac truck while looking for hole in csg. 10½ hrs. R# 5394				420 00	✓
0-31-84	Standby for work over cleaned up around location with vac truck 4 hrs. R# 5396				160 00	✓
-1-84	400 Bbls from 1-10 to Huber pit, standby while checking for hole 8½ hrs. R# 5399				340 00	
-2-84	700 Bbls from 1-10 to Huber, standby with vac truck sucked out cellar while working over 9 hrs. R# 5577				360 00	
-3-84	700 Bbls from 1-10 to Huber pit, sucked out cellar and cleaned up around location 10½ hrs. R# 5580				420 00	
Total Inv. # 13099						\$ 1900 00

Oct- 100 bbls — \$200

NV 7643

Oct- 100 bbls — \$2.00

Nov- 0 bbls.

5391

RECEIVED BY: J. H. Mears

GPC-1030
A-4

COMPANY	ACCOUNT NUMBER	D	VENDOR OWNER AFE	PROPERTY FACILITY	LEASE NUMBER	SERV CODE	DISCOUNT	NET AMOUNT
101	1016102016	28	37864					1900.00
102	2711000	28	191909					1900.00

TO: **GRACE PETROLEUM CORPORATION**
143 Union Blvd.
Lakewood, CO 80228

RECEIVED DATE
PRODUCTION
01/07
Huber
013096

SOLD TO
ORDER NO.
DATE SHIPPED
SHIPPED VIA
water hauling
\$40.00 per hr.

SALESMAN
8501-818
OUR ORDER NO.

LINE	DESCRIPTION	UNIT PRICE	AMOUNT
30-84	100 Bbls from pit to Clark SWD 2 1/2 hrs. R# 5395	\$ 100 00	
31-84	100 Bbls from pit to Clark SWD 2 hrs. R# 5397	80 00	
31-84	180 Bbls from Huber to Goings SWD, 180 to Clark 6 hrs. R# 5436	240 00	
1-84	100 Bbls from pit to Vickers SWD 2 hrs. R# 5576	80 00	
2-84	180 Bbls to Vickers SWD 3 1/2 hrs. R# 5445	140 00	
2-84	100 Bbls to Vickers SWD from pit 2 hrs. R# 5578	80 00	
3-84	180 Bbls prod. water to Vickers SWD 3 1/2 hrs. R# 5451	140 00	
3-84	100 Bbls prod. water to Vickers SWD 2 hrs. R# 5581	80 00	
3-84	180 Bbls pit water to Vickers SWD, 360 to Goings 8 hrs. R# 5216	320 00	
4-84	180 Bbls prod. water to Clark SWD 3 hrs. R# 5459	120 00	
5-84	175 Bbls jp rod. water to Vickers SWD 3 1/2 hrs. R# 5584	140 00	
6-84	280 Bbls to Goings SWD, 80 from test tank to Goings 6 hrs. R# 5466	240 00	
7-84	180 Bbls to Vickers SWD 3 1/2 hrs. R# 5468	140 00	
	Total Inv. # 13096		\$1900 00

NV 784-3

2095

RECEIVED BY 5395

GPC-1030
A-4

COMPANY	ACCOUNT NUMBER	D	VENDOR OWNER AFE	PROPERTY FACILITY A	LEASE NUMBER	SERV CODE	DISCOUNT	NET AMOUNT
10	17	16	17	18	19	20	23	24
28	29	33	37	36	39	40	42	80
87	88	96						
10/6/02	016		37864					1900.00
02	2	7	1	1	0	0	0	0
			28					1900.00

in POH w/ ported rods. Body break on 82 x 11" in. Ran in w/ fishing tool. Replaced 1/8" w/ 1"

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

RECEIVED

PRODUCTION

Denver

JAN 02

Capitol AFE ☐ No
Expense AFE ☐ No

8501-821-013103
11-17-84

NorthWest Poplar Field

Grace Petroleum Corporation

Prop.

143 Union Blvd.

Lakewood, CO 80228

ST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling			
		\$40.00 per hr.			

DATE	DESCRIPTION	UNIT PRICE	AMOUNT
1-2-84	200 Bbls from pit to Vickers SWD 3½ hrs. R# 5579	\$140 00	
1-4-84	600 Bbls from pit to Goings SWD 10 hrs. R# 5582	400 00	
1-6-84	200 Bbls from pit to Vickers SWD 3½ hrs. R# 5587	140 00	
1-7-84	360 Bbls to Vickers SWD, 200 to Goings SWD 10 hrs. #5592	400 00	
1-8-84	190 Bbls from NW Field 3½ hrs. R# 5595	140 00	
1-9-84	300 Bbls from pit to Goings SWD 5 hrs. R# 5599	200 00	
1-11-84	300 Bbls to Goings SWD 5 hrs. R# 5489	200 00	
1-11-84	200 Bbls from pit to Goings SWD 3½ hrs. R# 5530	140 00	
1-11-84	600 Bbls from pit to Goings SWD 10 hrs. R# 5603	400 00	
1-13-84	260 Bbls to Goings SWD 4 hrs. R# 5499	160 00	
1-13-84	200 Bbls from pit to Goings SWD 3½ hrs. R# 5607	140 00	
1-15-84	160 Bbls from pit to Vickers SWD 3 hrs. R# 5620	120 00	
1-16-84	560 Bbls to Goings SWD 9 hrs. R# 5504	360 00	
1-17-84	200 From pit to Vickers SWD, water from cellar from 1R to Vickers SWD 5 hrs. R# 5534	200 00	
	Total Inv. # 13103		\$ 3140 00

INV 764-3

5579

RECEIVED BY: Ronald K. Kalka

NET AMOUNT

7088

96

28546
28546
28546
28546
28546
28546
28545
28545
28545
57090
28545

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

Q13104-

RECEIVED

PRODUCTION

Denver

'JANOZ'

Prop.

Capitol AFE ☐

Expense ² AFE ☐

App TERMS 11/11/15 85 SMAN

NorthWest Folio 211

NET AMOUNT

70	88
----	----

©

CUST. ORDER NO.

DATE SHIPPED

SHIPPED VIA

water hauling

TERMS 1/11/15-85 ESMAN

FOR

OUR ORDER NO. _____

DESCRIPTION

UNIT PRICE

AMOUNT

11-17-84	300 Bbls to Vickers SWD, 150 To Goings SWD 7½ hrs. #5509.
11-17-84	100 Bbls from pit to Goings SWD 1½ hrs. R# 5535
11-18-84	300 Bbls to Vickers SWD, 150 to Goings SWD 7½ hrs. #5512
11-19-84	300 Bbls to Vickers SWD 5 hrs. R# 5519
11-19-84	300 Bbls to Vickers SWD 5 hrs. R# 5733
11-20-84	300 Bbls to Vickers SWD 5 hrs. R# 5523
11-20-84	160 Bbls from pit to Vickers SWD, 310 to Goings SWD 7½ hrs. R# 5736
11-21-84	200 Bbls pit water to Goings SWD 3½ hr s. R# 5536
11-21-84	300 Bbls to Vickers SWD, 150 to Goings SWD 7½ hrs. #5741
11-21-84	300 Bbls to Vickers SWD 5 hrs. R# 5626
11-22-84	200 Bbls to Vickers SWD 3½ hrs. R# 5634
11-23-84	200 Bbls to Vickers SWD 3½ hrs. R# 5748
11-23-84	300 Bbls from pit to Goings SWD 5 hrs. R# 5749
11-24-84	400 Bbls from pit to Goings SWD 7 hrs. R# 5701

\$300	00
60	00
300	00
200	00
200	00
200	00
300	00
140	00
300	00
200	00
140	00
140	00
200	00
200	00

\$ 2960 1 00

Enviro INV 764-3

RECEIVED BY:

No. 5509

~~44~~ 111711101X 7071 2X |||

RECEIVED

PRODUCTION

Grace Petroleum Corp.

Denver

143 Union Blvd.

Lakewood, CO 80228

JAN 07

Huber

Capital AFE ☐ No ☐
Expense AFE ☐ No ☒

ORDER NO. *had* DATE SHIPPED SHIPPED VIA *water hauling* Approved *MT 1-15-85* SALESMAN F.O.B. OUR ORDER NO.

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
-10-84	180 Bbls to Vickers SWD 3 1/2 hrs. R# 5479	\$ 140 00	
-12-84	180 Bbls to Goings SWD 3 hrs. R# 5492	120 00	
-13-84	180 Bbls to Goings SWD 3 1/2 hrs. R# 5606	140 00	
-15-84	180 Bbls to Clark SWD 3 1/2 hrs. R# 5619	140 00	
-17-84	180 Bbls to Goings SWD 3 1/2 hrs. R# 5623	140 00	
-22-84	190 Bbls to Vickers SWD 3 1/2 hrs. R# 5639	140 00	
-24-84	100 Bbls to Clark SWD 2 hrs. R# 5750	80 00	
-24-84	180 Bbls to Clark SWD 3 hrs. R# 5639	120 00	
-26-84	190 Bbls to Clark SWD 2 hrs. R# 5219	80 00	
-27-84	180 Bbls to Clark SWD 3 hrs. R# 5679	120 00	
-29-84	180 Bbls from pit to Vickers SWD 3 1/2 hrs. R# 5718	140 00	
Total Inv. # 13097			\$1360 00

INV 7643

1830

RECEIVED BY *Kondal Kukulic*

No. 5479

GPC-1030

COMPANY																	CODING APPROVED																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
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10	12	1617	1819	20	22	2324	28	29	33	37	36	39	40	42	80	87	88																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									</

upr. POH w/ parted rods. Body break on 82 x 1/8" T.O. P. placed 1/8" w/ 1"

				@	/ Each
		Swab) 1 1/4"	2 3/8"	Sand	
		Cups) 1 1/2"	2 7/8"	Wire	
			3 1/2"	Rubber	@ / Each
	Pipe Wiper Rubbers)	9"	12"	17"	@ / Each
	Rod Wiper Rubbers)	Pigtail Disc			@ / Each

WILLIAM D. STRAUSSER
Box 583 Ph. 406-768-3325
Poplar Montana 59255

013105

DATE: 11-30-84

RECEIVED
PRODUCTION
Denver
JAN 02

North West Poplar Filed

Grace Petroleum Corporation

143 Union Blvd.

Lakewood, CO 80228

Capitol AFE ☐

TERMS	
Expense	AFF

No

SALESMAN	
----------	--

F.O.B.

OUR ORDER NO.

water hauling

Approved 0.00 per hr.

DESCRIPTION

UNIT PRICE

AMOUNT

11-24-84	100 Bbls pit water fo Clark SWD 2 hrs. R# 5702
11-25-84	400 Bbls to Goings SWD, 400 to Vickers SWD 14 hrs. R# 5703
11-26-84	300 Bbls to Clark SWD, 200 to Goings SWD 8½ hrs. R# 5704
11-27-84	500 Bbls from pit to Goings SWD, 100 to Clark SWD 10 hrs. R# 5705
11-28-84	400 Bbls from pit to Vickers SWD, 100 to Goings SWD 8½ hrs. R# 5707
11-29-84	200 Bbls to Vickers SWD 3½ hrs. R# 5719
11-29-84	300 Bbls to Vickers SWD, 100 to Goings SWD 7 hrs. #5691
11-30-84	100 Bbls from pit to Goings SWD, 100 to Vickers SWD 4 hrs. R# 5223

Total Inv. # 13105

\$2300.00
 二千三百元

INV 764-3

RECEIVED 51

No. 5702

230000

11-10-84

RECEIVED

SOLD TO

143 Union Blvd.

JAN 08

7956B

SHIP
TO

War Club 1R

Lake wood, CO 80228

ArE ☒ Nk

JUST. ORDER NO.

DATE SHIPPED

SHIPPED VIA

Expense

AFF

T

MS

SALESMAN

F.O.B.	
--------	--

OUR ORDER NO	
--------------	--

water hauling

Approved.

Mr.

DESCRIPT		UNIT PRICE	AMOUNT
10-4-84	300 Bbls from 1R to Vickers SWD 5½ hrs. R# 5288	220 00	
10-4-84	200 Bbls from swab tank to Vickers SWD 3½ hrs. R# 5283	\$ 140 00	
10-5-84	200 Bbls from 1R to Goings SWD 3½ hrs. R# 5286	160 00	
10-7-84	184 Bbls from test tank to Vickers SWD 3 hrs. R# 5268	120 00	
10-29-84	100 Bbls from 1R 1½ hrs. R# 5392	50 00	
11-1-84	100 Bbls fresh water from River 2½ hrs. R# 5400	100 00	
11-3-84	90 Bbls from 4-10 Trial to mud tanks 2 hrs. R# 5448	80 00	
11-6-84	200 Bbls from Goings pit, 100 from Phillips sucked out cellar 6 hrs. R# 5586	240 00	
11-7-84	177 Bbls from test tank to Goings SWD 2½ hrs. R# 5472	100 00	
11-7-84	200 Bbls prod. water (Allison Workover Rig) 3 hrs. R# 5591	120 00	
11-10-84	177 Bbls prod. water from test tank to Vickers SWD 3 hrs. R# 5484	120 00	
11-10-84	25 Bbls from mud tank, 75 from test tank to Goings 2 hrs. R# 5529	20 00	
11-10-84	185 Bbls prod. water from test tank to Vickers 3 R# 5478	120 00	
	Total Inv. # 13100		

Casey INV 764-3

EST 94 K 00

RECEIVED BY

No. 5288

2123

1380

COMPANY															CODING BY					CODING APPROVED				
LINE NUMBER		ACCOUNT NUMBER					D D	VENDOR OWNER AFE		PROPERTY FACILITY		W A	LEASE NUMBER					DISCOUNT		NET AMOUNT				
10	12	16	17	18	19	20	21	23	24	28	29	33	37	36	39	40	42	80		87	88		90	
001		1191001					456B								005							1640.00		

Swab Cups	1 1/4"	2 3/8"	Sand	_____ @ _____ / Each
	1 1/2"	2 7/8"	Wire	
	2 1/16"	3 1/2"	Rubber	

WILLIAM D. STRAUER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

RECEIVED INVOICE
PRODUCTION
Denver 013122
JAN 14
Prop. -016
Capitol AFE ☐ No. ☒
Expense AFE ☐ No. ☒
Approved M. J. 1-15-85

DATE 11/8/83
vle

SOLD TO

143 Union Blvd.

Lakewood, Colorado 80228

SHIP TO

North West Poplar Field

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	\$40 per hr.			
QUANTITY	DESCRIPTION				UNIT PRICE	AMOUNT
12-26-84	300 Bbls pit water to Goings SWD, 300 to Vickers SWD, 10½ hrs. R# 6046				\$420 00	
12-26-84	150 Prod. water to Vickers SWD 2½ hrs. R# 6003				100 00	
12-27-84	400 Bbls prod. water to Vickers SWD 7 hrs. R# 5857				280 00	
12-28-84	270 Bbls prod. water to Goings SWD 4½ hrs. R# 6015				180 00	
12-28-84	190 Bbls prod. water to Goings SWD 3½ hrs. R# 5928				140 00	
12-29-84	300 Bbls pit water to Vickers SWD, 300 to Goings SWD 10½ hrs. R# 6049				420 00	
12-29-84	150 Bbls prod. water to Vickers SWD 2½ hrs. R# 6020				100 00	
12-30-84	300 Bbls prod. water to Vickers SWD, 300 to Goings SWD 10½ hrs. R# 6054				420 00	
12-31-84	300 Bbls pit water to Vickers SWD, 200 to Goings SWD 8½ hrs. R# 6065				340 00	
12-31-84	150 Bbls prod. water to Vickers SWD, 140 to Goings SWD 4½ hrs. R# 6064				180 00	
12-31-84	150 Bbls prod. water from North West Poplar Field 2½ hrs.				100 00	\$ 2680 00

(Encls) INV 764-3

5936

Total # 13122

No. 6046

RECEIVED 81

~~744 5/11/18/11/10/1707 2811~~

NET AMOUNT

7088

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WILLIAM D. STRAUSSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

Denver

JAN 14

Q13121

DATE: 12-26-84

Prop

Capitol AFE ☐ No ☐
Expense AFE ☐ No ☒
Approved M. J. 1-15-85

Grace Petroleum Corporation

143 Union Blvd.

Lakewood, Colorado 80228

North West Poplar Filed

NET AMOUNT

70	88
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94

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	\$40.00 per hr.			
DESCRIPTION					UNIT PRICE	AMOUNT
12-17-84	600 BbIs prod. water to Vickers SWD 10½ hrs. R# 5819	\$420	00			
12-18-84	500 BbIs pit water to Vickers, 100 To Goings 10½ hrs. #5823	420	00			
12-19-84	300 BbIs pit water to Vickers SWD, 100 to Goings SWD. 7 hrs. R# 6026	280	00			
12-20-84	300 BbIs pit water to Vickers SWD 5 hrs. R# 6034	200	00			
12-21-84	500 BbIs pit water to Vickers SWD, 200 to Goings SWD 12½ hrs. R# 6035	500	00			
12-22-84	200 BbIs pit water to Vickers SWD, 300 to Goings SWD 8½ hrs. R# 6038	340	00			
12-23-84	300 BbIs prod. water to Vickers SWD 5 hrs. R# 5990	200	00			
12-24-84	700 BbIs prod. water to Goings SWD, 100 to Vickers SWD 14 hrs. R# 6039	560	00			
12-25-84	400 BbIs pit water to Vickers SWD, 200 to Goings SWD 10½ hrs. R# 6040	420	00			
12-26-84	300 BbIs pit water to Vickers SWD, 100 to Goings SWD 7 hrs. R# 6043	280	00			
Total Inv. # 13121					\$ 3620	00

Encl INV 764-3

~~Total Inv. # 13121~~

No. 5819

RECEIVED BY Donna L. L. L.

3/22/10

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

RECEIVED

PRODUCTION

Denver

JAN 14

INVOICE

13120

DATE: 12-16-84

Prop. ☐ AFE ☐ No ☐
Ex. ☐ AFE ☐ No ☒
Approved: M.J. 1-15-85

SOLD TO

Grace Petroleum Corporation

143 Union Blvd.

Lakewood, Colorado 80228

SHIP TO

North West Poplar Field

8501-81

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	\$40.00 per hr.			

DATE	DESCRIPTION	UNIT PRICE	AMOUNT
12-11-84	400 Bbls pit water to Vickers SWD, 100 to Goings SWD 8½ hrs. R# 5808	\$ 340 00	
12-12-84	400 Bbls pit water to Vickers SWD, 100 to Goings SWD 8½ hrs. R# 5812	340 00	
12-13-84	100 Bbls pit water to Vickers SWD, 100 to Goings SWD 3½ hrs. R# 5814	140 00	
1-14-84	150 Bbls prod. water to Vickers SWD 2½ hrs. R# 5771	100 00	
1-14-84	300 Bbls pit water to Vickers SWD, 300 to Goings SWD 10½ hrs. R# 5818	420 00	
12-14-84	300 Bbls prod. water to Vickers SWD, 150 to Goings SWD 7 hrs. R# 5911	280 00	
12-15-84	160 Bbls prod. water from pit to Vickers SWD 2½ hrs. #5774	100 00	
12-15-84	300 Bbls prod. water to Vickers SWD 5 hrs. R# 5915	200 00	
12-16-84	400 Bbls prod. water to Goings SWD, 100 to Vickers SWD 8 hrs. R# 5917	320 00	
Total Inv. # 13120			\$ 2240 00

INV 784-3

NET AMOUNT

7088

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No. 5808

RECEIVED BY

Korndt Kahlke

6

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

RECEIVED INVOICE

PRODUCTION

Denver

013119

DATE: 12-10-84

JAN 14

Capitol AFE ☐ No ☐
Expense AFE ☐ Na ☒

Approved *MM* 1-15-85

North West Poplar Field

SOLD TO

Grace Petroleum Corporation
143 Union Blvd.
Lakewood, Colorado 80228

SHIP TO

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	\$40.00 per hr.			

	DESCRIPTION	UNIT PRICE	AMOUNT
12-1-84	700 Bbls pit water to Vickers SWD, 100 to Goings SWD 14 hrs. R# 5225	\$560 00	
12-2-84	400 Bbls pit water from Goings pit to Vickers SWD 7 hrs. R# 5224	280 00	
12-3-84	100 Bbls pit water to Vickers SWD, 300 to Goings SWD 7 hrs R# 5777	280 00	
12-4-84	300 Bbls pit water to Vickers SWD 5 hrs. R# 5779	200 00	
12-5-84	400 Bbls pit water to Vickers SWD 7 hrs. R# 5786	280 00	
12-6-84	180 Bbls pit water to Vickers SWD 3 hrs. R# 5789	120 00	
12-7-84	120 Bbls prod. water to Vickers SWD 2½ hrs. R# 5788	100 00	
12-8-84	400 Bbls pit water to Vickers, 100 to Goings 8½ hr. #5795	340 00	
12-9-84	400 Bbls pit water to Vickers SWD 7 hrs. R# 5797	280 00	
12-10-84	400 Bbls pit water to Vickers SWD 7 hrs. R# 5801	280 00	
	400 Bbls pit water to Vickers SWD, 100 to Goings SWD 8½ hrs. R# 5806	340 00	\$ 3060 00
	Total # 13119		

INV 794-3

RECEIVED BY

'Kond' Koshak

No. 5225

NET AMOUNT

7088

96

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11/11/85 28111

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

013118

DATE: 12-31-84

SOLD TO

Grace Petroleum Corporation
143 Union Blvd.
Lakewood, Colorado 80228

SHIP TO

2850 18211

War Club 1R

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	\$40.00 per hr.			
QUANTITY	DESCRIPTION				UNIT PRICE	AMOUNT
12-4-84	172 Bbls prod. water to Vickers SWD from swab tank					
	2 1/2 hrs. R# 5828				\$100 00	
12-21-84	25 Bbls oil from central storage to Cowan pit					
	bad tank bottom, Iron sulfide and water				60 00	
	1 1/2 hrs. R# 6036				100 00	
12-27-84	Cleaned North tank with vac truck 2 1/2 hrs. R# 5853					
Total Inv. # 13118						\$260 00

RECEIVED
PRODUCTION
Denver
JAN 14
Prop. -016
Capitol AFE ☐ No ☐
Expense AFE ☐ No ☒
Approved M.T. 1-15-85

INV 764-3

No. 5828

RECEIVED BY Randy Wasson

STRAUSER OIL WELL OPERATING SERVICE
 WILLIAM D. STRAUSER
 Box 583 Ph. 406-768-3325
 Poplar, Montana 59255

INVOICE

8502-824 013172
 1-7-85

DATE 1/18/85
 J.S. 11/8/85
 will

81909 RECEIVED DATE

SOLD TO Grace Petroleum Corporation Denver
 143 Union Blvd., Suite 760
 Lakewood, Colorado 80228

SHIP TO North West Poplar Field

CUST. ORDER NO. DATE SHIPPED SHIPPED VIA

water hauling

Approved MY 2-9-85

TERMS

SALESMAN

F.O.B.

OUR ORDER NO.

DESCRIPTION	UNIT PRICE	AMOUNT
1-1-85 300 Bbbs prod. water to Vickers SWD, 100 to Goings SWD 7 hrs. R# 6066	\$280 00	
1-2-85 100 Bbbs prod. water to Vickers SWD 2 hr. R# 6067	80 00	
1-2-85 150 Bbbs prod. water to Vickers SWD 2 1/2 hrs. R# 3855	100 00	
1-3-85 200 Bbbs prod. water to Vickers SWD 3 1/2 hrs. R# 3858	140 00	
1-3-85 200 Bbbs prod. water to Vickers SWD, 200 to Goings SWD 7 hrs. R# 6072	280 00	
1-4-85 500 Bbbs prod. water to Vickers SWD, 300 to Goings SWD 14 hrs. R# 6075	560 00	
1-5-85 400 Bbbs prod. water to Vickers SWD, 400 to Goings SWD 14 hrs. R# 6176		
1-6-85 150 Bbbs prod. water to Vickers SWD 2 1/2 hrs. R# 3871		
1-2-85 130 Bbbs prod. water to Goings SWD, 300 to Vickers 7 hrs. R# 6118		
Total Inv. # 13172		

NET AMOUNT	
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INV 764-3

3430

No. 6066

RECEIVED BY

Kornel Pulaski

2380

1000.1

8502-824

11/11/85 11/11/85 11/11/85

WILLIAM D. STRAUSSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

013173

DATE 1/4/85

CUST. ORDER NO.		DATE SHIPPED	SHIPPED VIA	DESCRIPTION		UNIT PRICE		AMOUNT	
1-8-85				400 Bbls prod. water to Vickers SWD, 400 to Goings SWD 14 hrs. R# 6177		\$560	00		
1-8-85				300 Bbls prod. water to Vickers SWD 150 to Goings SWD 7 hrs. R# 6122		280	00		
1-9-85				200 Bbls prod. water to Vickers SWD, 200 to Goings SWD 7 hrs. R# 6179		280	00		
1-10-85				150 Bbls prod. water to Vickers SWD 2 1/2 hrs. R# 5942		100	00		
1-10-85				200 Bbls prod. water to Vickers SWD, 200 to Clark SWD 7 hrs. R# 6183		280	00		
1-10-85				150 Bbls prod. water to Vickers SWD 2 1/2 hrs. R# 6132		100	00		
1-11-85				150 Bbls prod. water to Clark SWD 2 1/2 hrs. R# 5950		100	00		
1-11-85				400 Bbls prod. water to Vickers SWD 7 hrs. R# 6186		280	00		
1-11-85				150 Bbls prod. water to Clark SWD 2 1/2 hrs. R# 6137		100	00		
1-12-85				150 Bbls prod. water to Clark SWD 2 1/2 hrs. R# 6207		100	00		
Total Inv. # 13173								\$2180	00

3200

No. 6177

RECEIVED BY

Konak (Kakulu)

0502821

218100

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

013174

RECEIVED

PRODUCTION

Denver,

FEB 2

Prop

Capital

AFE

AFE

PERMS

Approved

per hr.

1-17-85

Grace Petroleum Corporation

143 Union Blvd., Suite 260

Lake wood, CO 80228

North West Poplar Field

ST. ORDER NO.

DATE SHIPPED

SHIPPED VIA

water hauling

F.O.B.

OUR ORDER NO.

DESCRIPTION

UNIT PRICE

AMOUNT

1-12-85 300 Bbbs prod. water to Vickers SWD 5 1/2 hrs. R# 6189
1-13-85 450 Bbbs prod. water to Vickers SWD 7 hrs. R# 6139
1-13-85 150 Bbbs prod. water to Vickers SWD 2 1/2 hrs. R# 6210
1-14-85 150 Bbbs prod. water to Vickers SWD 2 1/2 hrs. R# 6142
1-1-485 150 Bbbs pit water to Vickers SWD, 150 to Vickers SWD
5 hrs. R# 6213
1-14-85 200 Bbbs prod. water to Clark SWD, 95 to Coings SWD
5 1/2 hrs. R# 6194
1-1-585 150 Bbbs prod. water to Vickers SWD 2 1/2 hrs. R# 6220
1-1-5-85 95 Bbbs prod. water to Clark SWD 2 hrs. R# 6196
1 -85 200 Bbbs prod. water to Vickers SWD 200 Bbbs to Clark
SWD 7 hrs. R# 6199
1-17-85 200 Bbbs prod. water to Clark SWD 3 1/2 hrs. R# 6153

\$220 00
280 00
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200 00
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100 00
80 00
280 00
140 00

\$1720 00

Total Inv. # 13174

INV 764-3

2496

RECEIVED BY

Konrad W. W. W.

No. 6189

NET AMOUNT

7088

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STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

013192

RECEIVED

PRODUCTION DATE

XXXXXX 1-31-85

Denver

FEB 13

SHIP TO

016

No ☐

No ☒

2-8-85

Grace Petroleum Corporation Prop.

143 Union Boulevard, Suite

Lakewood, Colorado 80228

North West Poplar Field

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling			
		\$40.00 per hr.			

DESCRIPTION	UNIT PRICE	AMOUNT
1-18-85 450 Bbls prod. water to Goings SWD 7½ hrs. R# 6226	\$ 300 00	
1-18-85 100 Bbls prod. water to Clark SWD 2 hrs. R# 6154	80 00	
1-19-85 200 Bbls prod. water to Vickers SWD, 300 to Clark SWD 8½ hrs. R# 6166	340 00	
1-20-85 200 Bbls prod. water to Vickers SWD, 200 to Stauffer 7 hrs. R# 6157	280 00	
1-21-85 500 Bbls prod. water to Vickers SWD, 200 to Clark SWD 12½ hrs. R# 6158	500 00	
1-22-85 500 Bbls prod. water to Vickers SWD 8½ hrs. R# 6169	340 00	
1-23-85 300 Bbls prod. water to Vickers SWD 5½ hrs. R# 6162	220 00	
1-24 500 Bbls prod. water to Vickers SWD, 100 to Goings SWD 10½ hrs. R# 6164	420 00	
1-25-85 400 Bbls prod. water to Vickers SWD, 100 to Goings SWD, 100 to Stauffer 10½ hrs. R# 6167	420 00	
Total Inv. # 13192		\$ 2900 00

INV 764-3

No. 6226

RECEIVED BY 1106226/15012102

NET AMOUNT

70/88

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WILLIAM D. STRAUSSER OIL WELL OPERATING SERVICE
 WILLIAM D. STRAUSSER
 Box 583 Ph. 406-768-3325
 Poplar, Montana 59255

INVOICE

RECEIVED

DATE 1-31-85

013193

DATE 1/18/85
Price

SOLD TO

81909

Grace Petroleum Corporation
 143 Union Blvd., Suite 760
 Lakewood, Colorado 80228

Deny
FEB 13
 Prop. 016
 Capital AFE No ☐
 Expense AFE No ☒
 Approved *W.D.S.* 2-13-85

NorthWest Poplar, Field

ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	F.O.B.	OUR ORDER NO.
		water hauling	\$40.00 per hr.		

DESCRIPTION	UNIT PRICE	AMOUNT
1-26-85 200 Bbls prod. water to Vickers SWD, 100 to Clark SWD 5½ hrs. R# 6170	\$220 00	
1-27-85 150 Bbls prod. water to Vickers SWD 2½ hrs. R# 3898	100 00	
1-28-85 500 Bbls prod. water to Vickers SWD, 100 to Stauffer, 100 to Goings SWD 12½ hrs. R# 6174	500 00	
1-29-85 400 Bbls prod. water to Vickers SWD, 200 to Goings SWD 10½ hrs. R# 6175	420 00	
1-30-85 400 Bbls prod. water to Vickers SWD 7 hrs. R# 4002	280 00	
1-31-85 500 Bbls prod. water to Vickers SWD, 100 to Goings SWD 10½ hrs. R# 4003	420 00	
1-2-85 100 Bbls prod. water to Vickers SWD 2 hrs. R# 5541	80 00	
Total Inv. # 13193		XXXXX XXXXX \$2020 00

NET AMOUNT

7088 96

8502 824

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INV 764-3

6170

RECEIVED BY

Kenneth Roberts

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

DATE: 2-15-85

Grace Petroleum Corporation

143 Union Blvd., Suite 760

Lakewood, CO 80228

North Poplar Field

MAR 07

-016

NET AMOUNT

7088

96

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	R.O.B.	YOUR ORDER NO.
		water hauling	\$40.00 per hr.			

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
2-1-85	100 Bbls prod. water to Stauffer 1½ hrs. R# 4008	\$ 80 00	
2-1-85	400 Bbls tp Vickers, 200 to Goings SWD 10½ hrs. R# 4006	420 00	
2-2-85	300 Bbls prod. water to Vickers SWD 5½ hrs. R# 4009	220 00	
2-2-85	150 Bbls to Vickers, 150 To Goings SWD 5 hrs. R# 3967	200 00	
2-4-85	300 Bbls prod. water to Vickers SWD 5 hrs. R# 3974	200 00	
2-4-85	100 Bbls prod. water to Vickers SWD 2 hrs. R# 4011	80 00	
2-5-85	450 Bbls prod. water to Vickers SWD 7½ hrs. R# 3977	300 00	
2-5-85	100 Bbls prod. water to Vickers SWD 2 hrs. R# 4015	80 00	
2-6-85	500 Bbls to Vickers, 200 to Goings SWD 12½ hrs. R# 4017	500 00	
2-9-85	400 Bbls prod. water to Goings SWD 7 hrs. R# 4020	280 00	
2-10-85	400 Bbls prod. water to Vickers SWD 7 hrs. R# 4023	280 00	
2-12-85	600 Bbls prod. water to Vickers SWD 10½ hrs. R# 4022	420 00	
2-13-85	500 Bbls to Vickers, 200 to Goings SWD 12½ hrs. R# 4024	500 00	
2-14-85	200 Bbls prod. water to Vickers SWD 3½ hrs. R# 4025	140 00	
2-15-85	400 Bbls prod. water to Goings SWD 7 hrs. R# 4026	280 00	
Total Inv. # 13215			\$3960 00

INV 764-3

5650

RECEIVED BY

Donald Holscher

No. 4008

291000

STRAUSER OIL WELL OPERATING SERVICE
WILLIAM D. STRAUSER

WILLIAM D. STRAUSSER
Box 5800 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

~~013246~~

DATE: 2-28-85

RECEIVED

PRODUCTION

Denver

MAR 07

North Poplar Field

Capital	AFE	<input type="checkbox"/>	No	<input type="checkbox"/>
Expense	AFE	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

RECEIVED MAY 19 1965

NET AMOUNT

70/88

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SOLD TO

SHIP TO

Grace Petroleum Corporation
143 Union Blvd., Suite 760
Lakewood, CO 80228

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN
		water hauling	\$40.00 per hr.	Steve & Rob

UNIT PRICE	AMOUNT
------------	--------

DATE	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
2-16-85	200 Bbls prod. water to Goings, 400 to Vickers 10½ hr. #4027	600	Bbls	\$420.00	
2-17-85	400 Bbls to Vickers SWD, 200 to Goings SWD 10½ hrs. R#4029	600	Bbls	420.00	
2-18-85	400 Bbls to Goings SWD, 100 to Clark SWD 8½ hrs. R# 4031	500	Bbls	340.00	
2-19-85	100 Bbls to Vickers SWD, 100 to Goings SWD 3½ hrs. R# 4032	200	Bbls	140.00	
2-20-85	600 Bbls to Goings SWD, 100 to Clark SWD 12½ hrs. R# 4034	700	Bbls	500.00	
2-21-85	300 Bbls prod. water to Vickers SWD 5½ hrs. R# 4036	300	Bbls	220.00	
2-22-85	400 Bbls prod. water to Vickers SWD 7 hrs. R# 4109	400	Bbls	280.00	
2-23-85	300 Bbls to Vickers SWD, 200 to Goings SWD 8½ hrs. R# 4037	500	Bbls	340.00	
2-24-85	400 Bbls prod. water to Vickers SWD 7 hrs. R# 4112	400	Bbls	280.00	
2-25-85	400 Bbls to Vickers SWD, 100 to Goings SWD 8½ hrs. R# 4038	500	Bbls	340.00	
2-26-85	300 Bbls to Vickers SWD, 200 to Goings SWD, 100 to Clark SWD 10½ hrs. R# 4039	600	Bbls	420.00	
2-27-85	200 Bbls prod. water to Vickers SWD 3½ hrs. R# 4042	200	Bbls	140.00	
2-28-85	300 To Vickers, 200 to Goings, 100 to Clark SWD 10½ R#4043	600	Bbls	420.00	
	400 to Vickers SWD, 200 to Goings SWD 10½ hrs. R# 4044	400	Bbls	280.00	
	Total				\$4680.00

(Only) INV 764-3

RECEIVED BY _____

No. 4027

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

013327

RECEIVED

PRODUCTION DATE

4-9-85

Don

MAY 1985

Prop

Capitol

AFE

No

Expenses

AFE

No

Approved

5-15-85

North Poplar Field

Grace Petroleum Corporation

143 Union Blvd., Suite 760

Lakewood, CO 80228

ST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	\$40.00 per hr			

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
-1-85	600 Bbls prod. water to Vickers SWD 10½ hrs. R# 4239	\$420 00	
-2-85	700 Bbls prod. water to Vickers SWD 12 hrs. R# 4243	480 00	
-3-85	100 Bbls prod. water to Vickers SWD 2 hrs. R# 4245	80 00	
-4-85	200 Bbls pit water to Vickers SWD 3½ hrs. R# 4410	140 00	
-4-85	100 Bbls prod. water to Clark SWD Bad road conditions 3 hrs. R# 4343	120 00	
-5-85	100 Bbls pit water to Vickers SWD 1½ hrs. R# 4417	60 00	
-6-85	300 Bbls prod. water to Vickers SWD, 300 to Clark SWD 10½ hrs. R# 4249	420 00	
-7-85	300 Bbls prod. water to Vickers SWD 5½ hrs. R# 4502	220 00	
-8-85	500 Bbls prod. water to Vickers SWD, 100 to Clark SWD 10½ hrs. R# 4503	420 00	
-9-85	200 Bbls prod. water to Vickers SWD, 200 to Clark SWD 7 hrs. R# 4505	280 00	
	Total Inc. # 13327		\$2640 00

INV 764-3

3700

RECEIVED BY

No. 4239

NET AMOUNT

7088

96

174768

11352

16368

21912

15048

24552

264000

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Mont. 59245

INVOICE

013328

RECEIVED
PRODUCTION
Denver DATE: 4-16-85
MAY 06 1985
Prop. ☒ Capital ☐ AFE ☐ N ☐
Expense ☐ AFE ☐ N ☒
Approved *[Signature]* 5-1-85
SHIP TO ☒



DATE 3/17/85

SOLD TO
Grace Petroleum Corporation
143 Union Blvd., Suite 200
Lakewood, CO 80223
North Poplar Field

CUST. ORDER NO. DATE SHIPPED SHIPPED VIA TERMS SALESMAN F.O.B. OUR ORDER NO.
water hauling \$40.00 per hr

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
4-10-85	200 Bbls prod. water to Vickers SWD, 200 to Clark SWD 3 1/2 hrs. R# 4509	\$340 00	
4-11-85	300 Bbls prod. water to Clark SWD, 100 to Vickers SWD 7 hrs. R# 4511	280 00	
4-12-85	600 Bbls prod. water to Clark SWD 10 1/2 hrs. R# 4515	420 00	
4-14-85	500 Bbls prod. water to Clark SWD, 100 to Vickers SWD 10 1/2 hrs. R# 4516	420 00	
4-15-85	600 Bbls prod. water to Clark SWD 10 1/2 hrs. R# 4517	420 00	
4-1 35	165 Bbls prod. water to Vickers SWD 2 1/2 hrs. R# 4530	100 00	
Total Inv. # 13328			\$1980 00

NET AMOUNT

7088	96
131076	
8514	
12276	
16434	
11286	
18414	

INV 784-3

2765 BW

RECEIVED BY Norman K. Kula
J. 4509

148000

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 405-768-3325
Poplar, Montana 59255

INVOICE

013341

RECEIVED

PRODUCTION DATE 4-30-85

Denver

MAY 17 1985

Grace Petroleum Corporation

143 Union Blvd., Suite 760

Lakewood, Co 80228

SHIP TO

North Poplar Field

8506 811

NET AMOUNT

70 88

96

17768

11352

16368

21912

15048

24552

ORDER NO.	DATE SHIPPED	SHIPPED VIA	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling			
		\$40.00 per hr			

DESCRIPTION		UNIT PRICE		AMOUNT	
4-24-85	500 Bbls pit water to Clakk SWD, 100 to Vickers SWD 10 1/2 hrs. R# 4572	\$420	00		
4-25-85	100 Bbls prod. water to Clark SWD 2 hrs. R# 4599	80	00		
4-26-85	400 Bbls pit water to Vickers SWD 7 hrs. R# 4777	280	00		
4-27-85	600 Bbls prod. water to Clark, 100 to Vickers SWD 12 hrs. R# 4591	480	00		
4-28-85	600 Bbls prod. water to Clakk SWD 10 1/2 hrs. R# 4601	420	00		
4-29-85	700 Bbls prod. water to Clark SWD 12 hrs. R# 4603	480	00		
4-30-85	700 Bbls prod. water to Clark SWD 12 hrs. R# 4605	480	00		
Total Inv. # 13341				\$2640	00

INV 764-3

3800 BW

RECEIVED BY

Ronald Kalkita

No. 4572

204000

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

013284

13504-823

RECEIVED
DATE: 3-15-85

SOLD TO

Grace Petroleum Corporation
143 Union Blvd., Suite 760
Lakewood, CO 80228

APR 08 1985
Prop. 016
Capital AFE ☐ No ☐ North Poplar field
Expense AFE ☒ No ☒
Salesman M. J. 4-8-85

CUST. ORDER NO. DATE SHIPPED SHIPPED VIA F.O.B. OUR ORDER NO.
water hauling \$40.00 per hr.

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
3-9-85	500 Bbls prod. water to Vickers & Clark SMD 0 1/2 hrs. R# 4179	\$ 340 00	
3-10-85	300 Bbls prod. water to Vickers SMD 5 hrs. R# 4180	200 00	
3-11-85	300 Bbls prod. water to Vickers SMD, 200 to Clark SMD 8 1/2 hrs. R# 4207	340 00	
3-12-85	200 Bbls prod. water to Vickers SMD, 200 to Clark SMD 7 hrs. R# 4209	280 00	
3-13-85	200 Bbls prod. water to Vickers SMD, 300 to Clark SMD 8 1/2 hrs. R# 4211	340 00	
3-14-85	200 Bbls prod. water to Vickers SMD, 400 to Clark SMD 10 1/2 hrs. R# 4212	420 00	
3-15-85	200 Bbls prod. water to Vickers SMD 3 1/2 hrs. R# 4213	140 00	
Total Inv. # 4213			\$2060 00

INV 764-3

3000

RECEIVED BY Wendy Harker

No. 4179

44 4/11/85 81909 28111

28600

NET AMOUNT
7088 96
18728
18728
18728
18727
18727
18727
18727
18727
18727
18727
27454
18727

STRAUSER OIL WELL OPERATING SERVICE
WILLIAM D. STRAUSER
 Box 583 Ph. 406-768-3325
 Poplar, Montana 59255

INVOICE

013302

4/17/85

RECEIVED DATE: 3-22-85

PRODUCTION

Denver

APR 08 1985

Grace Petroleum Corporation

143 Union Blvd., Suite 760

Lakewood, CO 80228

North Poplar Field

Prop

Capital

Expenses

Appr

TERMS

\$40.00 per hr

LESMAN

F.O.B.

OUR ORDER NO.

ST. ORDER NO.

DATE SHIPPED

SHIPPED VIA

water hauling

Steve & Bob

NET AMOUNT

7088

96

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
3-16-85	100 Bbls prod. water to Vickers SWD, 500 to Clark SWD 10½ hrs. R# 4215	\$420 00	
3-17-85	100 Bbls prod. water to Vickers SWD, 500 to Clark SWD 10½ hrs. R# 4216	420 00	
3-18-85	200 Bbls prod. water to Vickers SWD, 500 to Clark SWD 12 hrs. R# 4217	480 00	
3-19-85	200 Bbls prod. water to Vickers SWD, 200 to Clark SWD 7 hrs. R# 4220	280 00	
3-20-85	300 Bbls pit water to Clark SWD 5½ hrs. R# 4285	220 00	
3-21-85	200 Bbls prod. water to Vickers SWD, 600 to Clark SWD 14 hrs. R# 4222	560 00	
3-22-85	100 Bbls prod. water to Vickers SWD, 400 to Clark SWD 8½ hrs. R# 4223	340 00	
Total Inv. # 13302			\$2720 00

Form INV 784-3

3900

RECEIVED BY

Donald Nakstad

No. 4215

4/17/85 81909

272000

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

013303

25 4/17/85

18504 823

DATE: 3-31-85

RECEIVED
PRODUCTION



Grace Petroleum Corporation
143 Union Blvd., Suite 760
Lakewood, CO ; 80228

North Poplar Field

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	4-8-85	Steve & Bob		

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
3-23-85	100 Bbls prod. water to Vickers SWD, 400 to Clark SWD 8½ hrs. R# 4224	\$340 00	
3-24-85	400 Bbls prod. water to Vickers SWD, 200 to Clark SWD 10½ hrs. R# 4225	420 00	
3-26-85	100 Bbls prod. water to Vickers SWD, 300 to Clark SWD 7 hrs. R# 4226	280 00	
3-27-85	200 Bbls prod. water to Vickers SWD, 300 to Clark SWD 8½ hrs. R# 4228	340 00	
3-29-85	200 Bbls prod. water to Vickers SWD 3½ hrs. R# 4366	140 00	
3-29-	100 Bbls prod. water to Vickers SWD 2 hrs. R# 4235	80 00	
3-30-85	400 Bbls prod. water to Vickers SWD 7 hrs. R# 4236	280 00	
3-31-85	300 Bbls prod. water to Vickers SWD, 100 to Clark SWD 7 hrs. R# 4238	280 00	
Total Inv. # 13303			\$2160 00

NET AMOUNT

7088 96

19637
19637
19637
19637
19636
19636
19636
19636
39272
19636

INV 764-3

3106

RECEIVED BY: Ronald Kokska

lo. 4224

21600

STRAUSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

013408

DATE: 5-31-85

SOLD TO

Grace Petroleum Corp.

143 Union Blvd., Suite 760

Lakewood, CO 80228

SHIPPED TO

North Poplar Field

CUST. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		water hauling	\$40.00 per hr			

DATE	DESCRIPTION	UNIT PRICE	AMOUNT
5-16-85	400 Bbls prod. water to Vickers SWD 7 hrs. R# 4836	\$280 00	
5-17-85	460 Bbls prod. water to Vickers SWD 7 hrs. R# 4837	280 00	
5-17-85	180 Bbls prod. water to Vickers SWD 3 1/2 hrs. R# 4809	240 00	
5-20-85	80 Bbls prod. water to Circ. tank 1 1/2 hrs. R# 4842	60 00	
5-21-85	480 Bbls prod. water to Clark SWD 9 hrs. R# 4819	360 00	
5-18-85	750 Bbls pit water to Clark SWD 15 hrs. R# 4811	600 00	
Total Inv. # 13408			\$1720 00

RECEIVED
PRODUCTION

Denver

JUN 7 1985

Prop.

Capital

Expense

Approved

Yes

No

Yes

No

CALCULATED
M. S. AMOUNT
VERIFIED

\$1720 00

INV 784-3

2350

RECEIVED BY

[Signature]

No. 4836

DATE	5/31/85
PRICE	
NET AMOUNT	
13864	
7396	
1664	
14276	
9804	
15496	
17200	

STRAUSSER OIL WELL OPERATING SERVICE

WILLIAM D. STRAUSSER
Box 583 Ph. 406-768-3325
Poplar, Montana 59255

INVOICE

013370

DATE: 5-15-85

143 Union Blvd., Suite 760

Lakewood, CO 80228

North Poplar Field

ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
		pit water hauling	\$40.00 per hr			

DATE	DESCRIPTION	UNIT PRICE	AMOUNT
5-10-85	500 Bbbs prod. water to Clark SWD 8 1/2 hrs. R# 4716	\$340 00	
5-11-85	400 Bbbs prod. waterto Clark SWD, 100 to Vickers SWD 8 1/2 hrs. R# 4766	340 00	
5-15-85	600 Bbbs prod. water to Clark SWD 10 1/2 hrs. R# 4799	420 00	
5-15-85	150 Bbbs pit water from Ried to Clark SWD 2 1/2 hrs	100 00	
Total Inv. # 13370			\$1200 00



DATE	5/19/85
AMOUNT	7944/0
	5/160
	7440
	9460
	6840
	11160
	27

No. 4716

RECEIVED BY: WILLIAM D. STRAUSSER

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

PART # 442

RE 10/84 SWD

Grace Petroleum Hueber

8412 821

DATE	ITEM	GROSS AMOUNT	NET DUE
11/08/84	Salt Water disposed of in Clark #1 SWDW from Hueber Well: 560 BBL @ .50		280.00
	Salt Water disposed of in Vickers #1 SWDW from Hueber Well: 2350 BBL @ .50		1175.00
	Salt Water disposed of in Goings #1 SWDW from Hueber Well: 180 BBL @ .50		90.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		1545.00
<div data-bbox="380 1022 761 1394" data-label="Form"> <p>RECEIVED PRODUCTION NOV 19 1984 Prop. _____ Capitol _____ Expense _____ Approved: M.Y. 11-19-84</p> </div> <div data-bbox="794 1026 1110 1394" data-label="Text"> <p>13460 Poplar wells 3090</p> </div>			

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE

LOCATION	START OPERATION	9	Drilling	33
----------	-----------------	---	----------	----

Attn: J. E. Johnson

SVOLTO

PART # 442

RE: 10/84 SWD
North Field

8412-821

RECEIVED
PRODUCTIONS
Denver
NOV 19 1984
-016
Prep _____
Capitol A NJ ☐
Expense Aff L NJ ☒
Approved M.Y. 11-19-84

[illegible]

Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

8412-821

INVOICE

PART # 842

RE: SWD 10/84

No. Poplar Field

DATE	ITEM	GROSS AMOUNT	NET DUE
08/84	Salt Water disposed of in Goings #1 SWDW from No. Poplar Field: 1000 BBL @ .50		500.00
	Salt Water disposed of in Vickers #1 SWDW from No. Poplar Field: 3300 BBL @ .50		1650.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		2150.00

RECEIVED
PRODUCTION
Denver
NOV 19 1984
Prop. _____
Capitol _____
Expense _____
Approved M. J. 11-19-84

8412-821

4300

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE

2	386	4 <input type="checkbox"/> Pipe Recovery	8 <input type="checkbox"/> (For Office Use)	33					
4	100	9 <input type="checkbox"/> Drilling Rig	10 <input checked="" type="checkbox"/> Workover Rig	11 <input type="checkbox"/> Derrick Unit	34				
6	1500	12 <input type="checkbox"/> New Well	13 <input type="checkbox"/> Old Well	EQUIPMENT LOCATION AT CUSTOMER REQUEST YES NO					

Sorting Department
 ver, Colorado 80256 AND 303-894-1533 A

INVOICE
 PART # 442

o: Grace Petroleum Corporation
 1515 Arapahoe Street, Suite 200
 Denver, CO 80202

RE: 10/84 SWD

Grace Petroleum

War Club #1-R

Attn: J. E. Johnson

0412-9214

DATE	ITEM	GROSS AMOUNT	NET DUE
11/08/84	Salt Water disposed of in Vickers #1 SWDW from War Club #1-R: 684 BBL @ .50		342.00
	Salt Water disposed of in Goings #1 SWDW from War Club #1-R: 200 BBL @ .50		100.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		442.00

RECEIVED
 PRODUCTION
 Denver
NOV 19 1984
 Pre 9956
 Capital ☒ No ☐
 Expense ☐ No ☒
 Approved M. J. 11-19-84

AND POWER

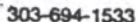
INVOICE CODING DOCUMENT CPC-1020

COMPANY													CODED BY				CODING APPROVED			
LINE NUMBER		ACCOUNT NUMBER				D	VENDOR OWNER AFE		PROPERTY FACILITY		W	LEASE NUMBER		SERV CODE	DISCOUNT		NET AMOUNT			
10	12	16	17	18	19	20	22	23	24	26	29	33	37	36	39	40	42	88	96	
001		17 91 001					4956B								005				442.00	
002		2 71 100					61213460				28								1442.00	

PLEASE REMIT UPON RECEIPT OF THIS INVOICE

VE
 TION
 RT

4 ☐ Pipe Recovery
☐ (For Office Use)
 33



Grace Petroleum Huber

Suite 200: 8501-812

Attn: J. E. Johnson

4125

COMPANY		13-01-15													CODED BY		CODING APPROVED	
LINE NUMBER	ACCOUNT NUMBER	DD	VENDOR OWNER AFE	PROPERTY FACILITY	W A	LEASE NUMBER		SERV CODE		DISCOUNT		NET AMOUNT						
10	21617181920	22	2324	28	29	3337	36	39	40	42	80	87	88					
<div>01/6/2016</div> <div>37864</div> <div>206250</div>																		
<div>02/7/1100</div> <div>6113460</div> <div>28</div> <div>206250</div>																		

RETURN YELLOW COPY WITH YOUR REMITTANCE
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Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE December 14, 1984

INVOICE # M12-10

PART # 442

RE: 11/84 SWD

No. Poplar Field

DATE	ITEM	GROSS AMOUNT	NET DUE
12/14/84	Salt Water disposed of in Goings #1 SWDW from No. Poplar Field: 1660 BBL @.50		830.00
	Salt Water disposed of in Clark #1 SWDW from No. Poplar Field: 500 BBL @ .50		<u>250.00</u>
	TOTAL DUE CENTURY OIL & GAS CORPORATION		<u>\$1080.00</u>

RECEIVED
PRODUCTION
Denver
JAN 02
Prop. 31887-016
Capital AFE ☐ No ☐
Expense AFE ☐ No ☒
Approved M. J. 1-9-85

8501 815

INVOICE CODING DOCUMENT GPC-1020 A.1

COMPANY																CODING APPROVED									
LINE NUMBER	ACCOUNT NUMBER				D D	VENDOR OWNER AFE	PROPERTY FACILITY	W A	LEASE NUMBER				SERV CODE	DISCOUNT	NET AMOUNT										
10	16	17	18	19	20	22	23	24	28	29	33	37	36	39	40	42	80	87	88	96					
001	610	2016							31886											541.00					
002									31887											539.00					
003	12	71	10	00	00				28											1080.00					



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE December 14, 1984

INVOICE # M12-11

PART # 442

RE: 11/84 SWD

No. Field

No. Side

8501-815

DATE	ITEM	GROSS AMOUNT	NET DUE
12/14/84	Salt Water disposed of in Vickers #1 SWDW from No. Field: 5420 BBL @ .50		2710.00
	Salt Water disposed of in Goings #1 SWDW from No. Side: 4470 BBL @ .50		2235.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		<u>\$4945.00</u>

INVOICE CODING DOCUMENT GPC-1020 A.1

COMPANY													CODING BY		CODING APPROVED						
LINE NUMBER	ACCOUNT NUMBER					D D	VENDOR OWNER AFE	PROPERTY FACILITY	W A	LEASE NUMBER		SERV CODE	DISCOUNT	NET AMOUNT							
10	12	16	17	18	19	20	22	23	24	28	29	33	37	36	39	40	42	80	87	88	96
											31886										247250
											31887										247250
				</																	

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PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE January 16, 1985

INVOICE # M01-24

PART # 442

RE: 12/84 SWD

No. Poplar Field

DATE	ITEM	GROSS AMOUNT	NET DUE
01/16/85	Salt Water disposed of in Vickers #1 SWDW from No. Poplar Field: 9020 BBL @ .50		4510.00
	Salt Water disposed of in Goings #1 SWDW From No. Poplar Field: 4020 BBL @ .50		2010.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		<u>\$6520.00</u>
	Chg To: WAR CLUB IR #92222 COWAN WESTERN #15359 Goings 1-10' #31886 BAKER Coulter #07888 Richards 3-1 #74917 Red 10-1 #73883	5 @ \$1086.66 1 @ \$1086.70	



13460

RECEIVED
PRODUCTION
Denver
JAN 21
Prop. -016
Capitol ☐ No ☐
Expense ☒ No ☒
Approved M.M. 1-22-85

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE January 16, 1985

INVOICE # M01-25

PART # 442

RE: 12/84 SWD

No. Field

8502-824

DATE	ITEM	GROSS AMOUNT	NET DUE
01/16/85	Salt water disposed of in Vickers #1 SWDW from No. Field: 2880 BBL @ .50		1440.00
	Salt water disposed of in Goings #1 SWDW from No. Field: 840 BBL @ .50		420.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		<u>\$1860.00</u>

RECEIVED
PRODUCTION
Denver
JAN 21
Prop. -016
Capitol AFL ☐ No ☐
Expense AFE ☐ No ☒
Approved M.Y. 1-22-85

8502-824

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corp.
1515 Arapahoe Atreet, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE January 16, 1985

INVOICE # M01-26

PART # 442

RE: 12/84 SWD

Grace Huber

DATE	ITEM	GROSS AMOUNT	NET DUE
01/16/85	Salt Water disposed of in Vickers #1 SWDW from Grace Huber: 1215 BBL @ .50 TOTAL DUE CENTURY OIL & GAS CORPORATION		607.50 <u>\$607.50</u>

8502-8198

INVOICE CODING DOCUMENT GPC-1020

COMPANY										CODING APPROVED									
LINE NUMBER	ACCOUNT NUMBER				D D	VENDOR OWNER AFE	PROPERTY FACILITY	W A	LEASE NUMBER	SERV CODE	DISCOUNT				NET AMOUNT				
10	11	18	19	20	22	23	24	28	29	37	36	39	40	42	80	87	88	96	
11/16/85										37864				607.50					



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE January 16, 1985

INVOICE # M01-27

PART # 442

RE: 12/84 SWD

Grace War Club

18502 8134

DATE	ITEM	GROSS AMOUNT	NET DUE
01/16/85	Salt Water disposed of in Vickers #1 SWDW from Grace War Club: 172 BBL @ .50 TOTAL DUE CENTURY OIL & GAS CORPORATION		86.00 <u>\$86.00</u>

20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95

INVOICE CODING DOCUMENT GPC-1020 A.1

COMPANY										1344 125										CODED BY										CODING APPROVED									
LINE NUMBER	ACCOUNT NUMBER										D	VENDOR OWNER AFE	PROPERTY FACILITY	W	LEASE NUMBER										SERV CODE	DISCOUNT	NET AMOUNT												
10	12	16	17	18	19	20	22	23	24	28	28	33	37	36	39	40	42	80		87	88							96											
1016102016																													86.00										
002 2 71 10 0 0																														86.00									

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

8502-819

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE January 16, 1985

INVOICE # M01-28

PART # 442

RE: 12/84 SWD

Goings Pit

DATE	ITEM	GROSS AMOUNT	NET DUE
01/16/85	Salt Water disposed of in Vickers #1 SWDW from Goings Pit: 400 BBL @ .50 TOTAL DUE CENTURY OIL & GAS CORPORATION		200.00 <u>\$200.00</u>

RECEIVED
FEBRUARY 1985

INVOICE CODING DOCUMENT GPC-1020

COMPANY																	CODED BY		CODING APPROVAL							
LINE NUMBER	ACCOUNT NUMBER				D D	VENDOR OWNER AFE	PROPERTY FACILITY	W A	LEASE NUMBER		SERV CODE	DISCOUNT	NET AMOUNT													
10	12	16	17	18	19	20	22	23	24	28	29	33	37	36	39	40	42	80	87	88	96					
1016102016																	31887						200.00			
1022711000																	13460		28				200.00			

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE February 26, 1985

INVOICE # M02-43

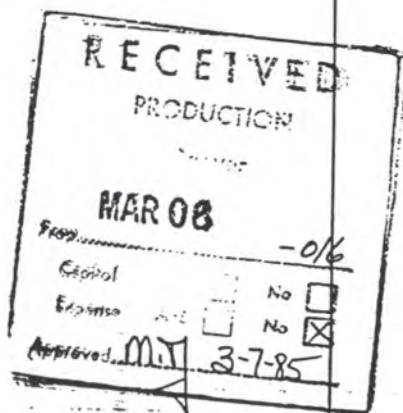
PART # 442

RE: 01/85 SWD

No Field

No. Poplar

DATE	ITEM	GROSS AMOUNT	NET DUE
02/26/85	Salt Water disposed of in Goings #1 SWDW from No. Poplar: 2195 BBL @ .50		\$1097.50
	Salt Water disposed of in Goings #1 SWDW from No. Field: 730 BBL @ .50		365.00
	Salt Water disposed of in Clark #1 SWDW from No. Poplar: 2145 BBL @ .50		1072.50
	TOTAL DUE CENTURY OIL & GAS CORPORATION		\$2535.00



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Century Oil & Gas Corporation

Accounting Department

Denver, Colorado 80256-0109

303-694-1533

DATE February 26, 1985

INVOICE # 442

PART # 442

RE: 01/85 SWD

No. Poplar

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE	ITEM	GROSS AMOUNT	NET DUE
02/26/85	Salt Water disposed of in Vickers #1 SWDW from No. Poplar: 8000 BBL @ .50		\$4000.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		<u>\$4000.00</u>

8503 821

RECEIVED
PRODUCTION
Denver
MAR 08 -016
Prop. _____
Capitol AFE ☐ No ☐
Expense AFE ☐ No ☒
Approved M.H. 3-7-85

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Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

DATE February 26, 1985

INVOICE # 102-33

PART # 442

RE: 01/85 SWD

No. Field

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE	ITEM	GROSS AMOUNT	NET DUE
2/26/85	Salt Water disposed of in Vickers #1 SWDW from No. Poplar: 2200 BBL @.50		\$1100.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		\$1100.00

8503 821

RECEIVED
PRODUCTION
Denver
MAR 08 -016
Prop. ☐ Capital ☐ No ☐
Expense ☐ No ☒
Approved: M.J. 3-7-85

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE March 12, 1985

INVOICE # M03-21

PART # 442

RE: 02/85 SWD

No. Field

6050-4-810

DATE	ITEM	GROSS AMOUNT	NET DUE
03/12/85	Salt water disposed of in Vickers #1 SWDW from No. Field: 6050 BBL @.50		\$3,025.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		\$3,025.00

11/13-2/85

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation
Accounting Department
Denver, Colorado 80256-0109 303-694-1533

DATE March 12, 1985
INVOICE # M03-20
PART # 442
RE: 02/85 SWD
No. Poplar

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202
Attn: J. E. Johnson

DATE	ITEM	GROSS AMOUNT	NET DUE
03/12/85	Salt water disposed of in Vickers #1 SWDW from No. Poplar: 1700 BBL @ .50		\$850.00
	Salt water disposed of in Goings #1 SWDW from No. Poplar: 1200 BBL @ .50		600.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		\$1,450.00

Handwritten: 11/21/85 3-21-85

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

DATE March 12, 1985

INVOICE # M03-22

PART # 442

RE: 02/85 SWD

No. Side

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

8504 #119

DATE	ITEM	GROSS AMOUNT	NET DUE
03/12/85	Salt water disposed of in Clark #1 SWDW from No. Side: 400 BBL @.50		\$200.00
	Salt water disposed of in Goings #1 SWDW from No. Side: 2300 BBL @ .50		\$1,150.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		\$1,350.00

Handwritten: MAY 31-85

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Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE April 9, 1985

INVOICE # M4-13

PART # 442

RE: 3/85 SWD

No. Side



DATE	ITEM	GROSS AMOUNT	NET DUE
4/09/85	Salt Water disposed of in Goings #1 SWDW from No. Side: 600 BBL @.50		300.00
	Salt Water disposed of in Clark #1 SWDW from No. Side: 5400 BBL @.50		2700.00
	Salt Water disposed of in Vickers #1 SWDW from No. Side: 7500 BBL @.50		3750.00
	TOTAL DUE CENTURY OIL & GAS CORPORATION		6750.00

148504 823



RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE

13,500



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corporation
1515 Arapahoe Street, Suite 200
Denver, CO 80202

Attn: J. E. Johnson

DATE May 8, 1985

INVOICE # M5-12

PART # 442

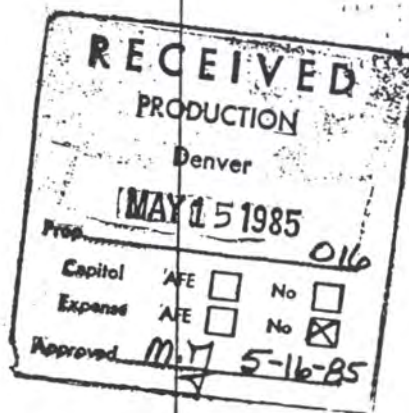
RE: 4/85 SWD

No. Side

8505824



DATE	ITEM	GROSS AMOUNT	NET DUE
5/8/85	Salt water disposed of in Vickers #1 SWDW from No. Side: 5165 BBL @.50		\$2,582.50
	Salt water disposed of in Clark #1 SWDW from No. Side: 10,200 BBL @.50		<u>5,100.00</u>
	TOTAL DUE CENTURY OIL & GAS CORPORATION		\$7,682.50



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Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533

To: Grace Petroleum Corporation
143 Union Blvd.-Suite 760
Lakewood, CO 80228

Attn: J. E. Johnson

DATE June 10, 1985

INVOICE # M6-33

PART # 442

RE 5/85 SWD

8506-824

DATE	ITEM	GROSS AMOUNT	NET DUE
06/10/85	Salt Water disposed of in Clark #1 SWDW from Grace well: 8585 BBL @.50		4,292.50
	Salt Water disposed of in Vickers #1 SWDW from Grace Well: 1625 BBL @.50		812.50
	TOTAL DUE CENTURY OIL & GAS CORPORATION		5,105.00



RECEIVED
PRODUCTION
Denver
JUN 11 1985
Prop. 016
Capitol AFE ☐ No ☐
Expense AFE ☐ No ☒
Approved M.T. 6-11-85

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE



Century Oil & Gas Corporation

Accounting Department
Denver, Colorado 80256-0109

303-694-1533



To: Grace Petroleum Corporation
143 Union Blvd.-Suite 760
Lakewood, CO 80228

Attn: J. E. Johnson



DATE June 10, 1985

INVOICE # M6-14

PART # 442

RE: 5/85 SWD

Goings Pit

DATE	ITEM	GROSS AMOUNT	NET DUE
06/10/85	Salt Water disposed of in Vickers #1 SWDW from Grace Goings Pit: 200 BBL @.50 TOTAL DUE CENTURY OIL & GAS CORPORATION		100.00
	<div data-bbox="630 924 998 1302"><p>RECEIVED PRODUCTION JUN 11 1985 Prop. <u>016</u> Capital AFE <input type="checkbox"/> No <input type="checkbox"/> Expense AFE <input type="checkbox"/> No <input checked="" type="checkbox"/> Approved <u>M.J. 6-11-85</u></p></div>		<u>100.00</u>

RETURN YELLOW COPY WITH YOUR REMITTANCE
PLEASE REMIT UPON RECEIPT OF THIS INVOICE

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

4/17/86

Answer 3

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11
12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff)
15)
16 vs.) PRELIMINARY PRETRIAL
17) STATEMENT
18 GRACE PETROLEUM CORPORATION,)
19 Defendant.)

20 The following preliminary pretrial statement is submit-
21 ted pursuant to Judge Hatfield's Standing Order re Pretrial
22 Procedure:

- 23 1. Problems with Federal Jurisdiction.
24 None.
25 2. Contentions of the Parties.

90-511-2383

DEPA	NOTICE
44	APR 22 1986
LANDS	
REGISTRATION / ENFORCEMENT	

1 The Department of Justice, at the request of the Envi-
2 ronmental Protection Agency, has filed suit against Grace seeking
3 civil penalties of up to \$900,000, for alleged violations of the
4 Safe Drinking Water Act arising from the operation of three water
5 injection wells. The complaint also seeks injunctive relief
6 requiring Grace to implement a plugging and abandonment plan of
7 one of the three wells. The government contends that the well
8 lacks mechanical integrity and might result in contamination of
9 underground sources of drinking water. The well has, in fact,
10 been plugged and abandoned since the complaint was filed.

11 The issue in the case is whether applications for the
12 permits for the wells were filed with the EPA "in a timely
13 manner." EPA regulations for the Montana UIC ("Underground
14 Injection Control") program became effective on June 25, 1984.
15 Class II wells, such as the ones involved here, were authorized to
16 inject by virtue of the regulations if the applications for
17 permits were filed in a timely manner.

18 On June 27, 1984, Grace received a letter from the EPA
19 dated June 25, 1984. The letter requested that Grace submit
20 permit applications by July 30, 1984. The letter went on to say
21 that the wells could continue to inject, as authorized by rule,
22 until the permit was denied or the operator failed to submit the
23 permit applications "within the time period specified in this
24 notice...."
25

1 The applications for Grace were filed on August 1, 1984.
2 The government contends that the failure to file by July 30, 1984,
3 resulted in a loss of authority to inject. Grace continued to
4 inject in two wells while it attempted to meet the EPA's
5 requirements. Injection continued for 60 days, during which time
6 Grace attempted to obtain emergency permits. When these permits
7 were denied, injection ceased. Permits were eventually issued by
8 the EPA, however, for the three wells.

9 The government's case hinges entirely on a determination
10 that the applications were not timely filed. For the following
11 reasons, Grace strongly contends that the applications were
12 submitted in a timely fashion on August 1, 1984:

13 (1) Matt Strever, a college student employed during the
14 summer by Grace, contacted the EPA on July 30, 1984, to obtain an
15 extension of time. Strever called Bill Engle, who was designated
16 in the original notice as an individual in the EPA to contact for
17 answers to questions, to find out if there was any objection to
18 the additional time. According to Strever, Engle made no
19 objection.

20 (2) There is no regulation which deals with extensions
21 of time or any formality which might be required to obtain an
22 extension. If, however, it is determined that no extension was
23 obtained, the government should be estopped by its conduct from
24 asserting that the applications were not submitted in a timely
25

1 manner.

2 (3) The applications were timely submitted pursuant to
3 40 C.F.R. 124.20(d), which provides:

4 Whenever a party or interested person has the
5 right or is required to act within a prescribed
6 period after the service of notice or other
paper upon him or her by mail, three (3) days
shall be added to the prescribed time.

7 The regulation is nearly identical to Rule 6(e) of the Federal
8 Rules of Civil Procedure. The only difference is the last word,
9 which is "time" in the regulation and "period" in the court rule.
10 Part 124 of Title 40 of the Code of Federal Regulations is
11 specifically alleged in the complaint to be applicable to the UIC
12 program requirements.

13 The EPA notice of June 25, 1984, requested that the
14 applications be submitted "by July 30, 1984." Although the time
15 for compliance was fixed by reference to a particular date, this
16 language created a prescribed period or prescribed time in which
17 the applications were to be filed. The notice itself refers to
18 the need to submit the permit applications "within the time period
19 specified in this notice." The regulation clearly grants an
20 additional three days of time because of service of the notice by
21 mail. The deadline for submission became August 2, 1984. The
22 applications were submitted August 1 and were therefore filed in a
23 timely manner, permitting continued injection throughout the time
24 in question.
25

1 3. Problems of Law.

2 Grace believes it may be in a position to file a motion
3 for summary judgment after several depositions of EPA employees
4 are taken.

5 4. Amendments to the Pleadings.

6 Grace believes that its denial of the complaint places
7 in issue its contentions regarding an extension of time granted
8 through the conversations of Matt Strever and the operation of 40
9 C.F.R. 124.20(d). If not, Grace requests that its answer be
10 amended accordingly.

11 5. Anticipated Extent of Discovery.

12 (a) Proposed Plan and Schedule of Discovery.

13 (i) Intended Requests for Admission.

14 Grace intends to submit requests for
15 upon completion of the depositions
16 described below.

17 (ii) Intended Interrogatories.

18 Grace will submit standard
19 interrogatories seeking information
20 regarding plaintiffs witnesses,
21 exhibits, and so forth.

22 (iii) Witnesses to be Deposed.

23 Grace may depose the following EPA
24 representatives:
25

1 Max H. Dodson
2 John F. Wardell
3 William Engle
4 Richard Long
5 John G. Welles
6 Pat Crotty
7 Laura Clemens
8 Dick Montgomery
9 Roger E. Frenette

10 Other depositions of EPA personnel might
11 become necessary. Likewise, depositions
12 of other witnesses could be required,
13 depending upon what issues are contested
14 and what witnesses might otherwise be
15 unavailable at trial.

16 (iv) Documents to Inspect.

17 Grace wishes to inspect records of
18 contacts by the EPA with Grace.

19 (b) Timetable for Discovery.

20 Grace hereby requests that the deposition of
21 Bill Engle be scheduled during May of 1986.
22 Documents could be produced prior to the
23 deposition. The remaining depositions of EPA
24 personnel could be completed by August 31,
25 1986.

(c) Proposed Limitations on Discovery.

None.

(d) Discovery Completion Date.

1 September 30, 1986. Grace would request that
2 trial on the issue of liability be scheduled in the
3 Fall of 1986 or after April of 1987.

4 Dated this 17th day of April, 1986.

5 CROWLEY, HAUGHEY, HANSON,
6 TOOLE & DIETRICH

7 By Jack Ramirez
8 P. O. Box 2529
9 Billings, Montana 59103
10 Attorneys for Defendant

11
12
13 **CERTIFICATE OF SERVICE**

14 This is to certify that the foregoing was de-
15 served by mail upon parties or attorneys of re-
cord at their address or addresses this 17th
day of April, 1986

16 Crowley, Haughey, Hanson,
17 Toole & Dietrich

18 v Jack Ramirez
19 P.O. Box 2529 Billings Montana

Conover 13.

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

JAMES M. HAUGHEY
NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
THOMAS N. KELLEY
LOUIS R. MOORE
GARFIELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EDD LEE
STUART W. CONNER
HERBERT I. PIERCE, III
RONALD R. LODDERS
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. SITES

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P.O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
TELECOPIER (406) 256-8526

—
CALE CROWLEY
OF COUNSEL

L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LEHMAN
T. G. SPEAR
LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER MANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LANDIN, III
MICHAEL S. DOCKERY
WILLIAM J. MATIX
PETER F. HABEN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MICHAEL B. EVANS
MARY S. YERGER
JON T. DYRE
DENNIS NETTIKSIMMONS
MICHAEL C. WALLER
SHARON NOVAK

April 15, 1986

Mr. Brian G. Donohue
Trial Attorney
Environmental Enforcement Section
Land & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

RE: U.S. v. Grace Petroleum Company
CV-86-03-GF-PGH

Dear Brian:

This will confirm that the parties will participate in the preliminary pretrial conference on April 23, 1986, at 10:30 o'clock a.m., through long distance conference call and that you have kindly agreed to be responsible for placing this call.

Thank you.

Sincerely yours,

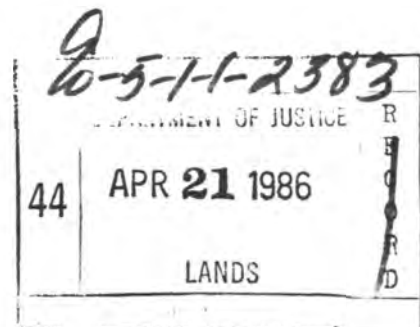
Jim

James P. Sites
CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

JPS:se

cc: Mr. George F. Darragh, Jr.
Assistant United States Attorney
District of Montana
PO Box 3446
Great Falls, MT 59403

Clerk of Court
(for filing)





DTB:BGD:1mt
90-5-1-1-2383

FILE

Washington, D.C. 20530

April 7, 1986

Jack Ramirez, Esq.
Crowley, Haughey, Hanson,
Poole & Dietrich
500 Transwestern Plaza II
P. O. Box 2529
Billings, MT 59103-2529

Re: United States v. Grace Petroleum Corporation

Dear Jack:

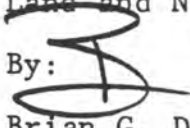
This will confirm our telephone conversation in which we agreed to request of the Court that the preliminary pre-trial conference scheduled for April 23, 1986, be conducted by conference call. You indicated that you would notify the Court and make the arrangements.

In addition, as I indicated to you on the phone, I urge you to consider making an offer of settlement at this time.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Al Smith
Alan Morrissey

Memorandum

Donohue-2



Subject UNITED STATES v. GRACE PETROLEUM CORP.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date 3/13/86

CV 86-3-GF
CI 85-0429

To BRIAN G. DONOHUE, Attorney
Environmental Enforcement
Section
Land & Natural Resources Div.

From GEORGE F. DARRAGH, Jr.
Assistant United States Attorney
212 Federal Building
P.O. Box 3446
Great Falls, MT 59403

Enclosed are copies of answer and jury demand for the above-stated case.

enc.

jt

cc: Alfred C. Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

90-5-1-1-2383

44	DEPARTMENT OF JUSTICE	R
	MAR 18 1986	E
	LANDS	O
		R
		D

Jack Ramirez
CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH
P. O. Box 2529
Billings, Montana 59103
406-252-3441
Attorneys for Defendant

3/11/86

Handwritten signature/initials

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,	)	No. CV-86-03-GF-PGH
)	
Plaintiff,)	
)	
vs.	)	<u>ANSWER AND JURY DEMAND</u>
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	

* * * * *

ANSWER

* * * * *

Comes now the defendant and answers separately to each
numbered allegation of the complaint as follows:

1. Requires no response, but denies that plaintiff is
entitled to any relief by reason of its action and/or this allega-
tion.

10-5-1-1-2382
MAR 14 1986
LANDS DIVISION
POLLUTION/ENFORCEMENT

1 2. Avers that jurisdiction, if present, is conferred
2 upon this District Court. Admits that this action arises under
3 42 U.S.C. § 300h-2(b)(1) and denies that plaintiff is entitled to
4 any relief thereunder.

5 3. Admits that venue resides in this District Court pur-
6 suant to 28 U.S.C. § 1391(c).

7 4. Denies for lack of knowledge.

8 5. Admits.

9 6. Denies.

10 7. Admits.

11 8. Admits.

12 9. Admits.

13 10. Denies.

14 11. Denies.

15 20. Denies that the complaint as served contained para-
16 graphs 12 through 19. As to paragraphs 1 through 11, incorporates
17 by this reference its answers as set forth herein.

18 21. Denies and states that permit applications were
19 filed in a timely manner by defendant and that defendant was at
20 all times relevant to this action authorized to inject.

21 22. Denies.

22 23. Denies that the complaint as served contained para-
23 graphs 12 through 19. As to paragraphs 1 through 11, incorporates
24 by this reference its answers as set forth herein.

25 24. Denies and states that permit applications were

1 filed in a timely manner by defendant and that defendant was at all
2 times relevant to this action authorized to inject.

3 25. Denies.

4 26. Denies that the complaint as served contained para-
5 graphs 12 through 19. As to paragraphs 1 through 11, incorporates
6 by this reference its answers as set forth herein.

7 27. Denies.

8 28. Denies.

9 29. Denies that the complaint as served contained para-
10 graphs 12 through 19. As to paragraphs 1 through 11, incorporates
11 by this reference its answers as set forth herein.

12 30. Denies that at any time relevant to this action Buck
13 Elk #2 was operated as an injection well.

14 31. Denies that at any time relevant to this action Buck
15 Elk #2 was operated as an injection well.

16 32. Admits.

17 33. Denies.

18 34. Denies.

19 35. Except as hereinabove admitted, qualified or other-
20 wise alleged and stated, defendant denies each and every allegation,
21 thing and matter of the complaint.

22 AFFIRMATIVE DEFENSE

23 36. Plaintiff's conduct led defendant to believe itself
24 to be in compliance with all applicable governmental laws and rules;
25 therefore, it is estopped from being granted the relief prayed in

1 the complaint for alleged failure to permit permit applications
2 in a timely manner.

3 * * * * *

4 JURY DEMAND

5 * * * * *

6 Defendant demands trial by jury in this action.

7
8 WHEREFORE, having fully answered, and demanded trial by
9 jury, defendant respectfully demands judgment in its favor for its
10 costs, fees and other expenses, and such other and future relief
11 which the Court may deem as just and proper.

12 Dated this 11th day of March, 1986.

13 CROWLEY, HAUGHEY, HANSON,
14 TOOLE & DIETRICH

15 By Jack Ramirez
16 P. O. Box 2529
17 Billings, Montana 59103
Attorneys for Defendant

18
19 **CERTIFICATE OF SERVICE**

20 This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 11th
day of Mar, 1986

21 Crowley, Haughey, Hanson,
22 Toole & Dietrich
By Jack Ramirez
23 P. O. Box 2529 - Billings, Montana 59103
24
25

Memorandum



16/70:07-2.3 3/20/86 - Justice 3

Subject	UNITED STATES v. Grace Petroleum Corp. Ref: DTB:BGD:bab 90-5-1-1-2383	Date	3/24/86 CV 86-3-GF CI 85-0429
---------	---	------	---

To BRIAN G. DONOHUE, Attorney
Environmental Enforcement
Section
Land & Natural Resources Div.

From GEORGE F. DARRAGH, Jr.
Assistant U.S. Attorney
212 Federal Building
P.O. Box 3446
Great Falls, MT 59403

Enclosed are copies of Judge Hatfield's order of March 20, 1986, directing attorneys to attend a preliminary pretrial conference on 4/23/86 at 10:30 a.m. filed on March 21, 1986.

enc.

jt

cc: Alfred C. Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

60-87-334
#3
Sec 1

9

20-5-1-1-2383	
44	DEPARTMENT OF JUSTICE MAR 31 1986 RECORDED

FILED
FILED
1986 MAR 21 AM 10:12
1986 MAR 21 AM 10:12
LOU ALEKSICH, JR. CLERK
LOU ALEKSICH, JR. CLERK
BY PHATE WELDELE
BY DEPUTY CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

RECEIVED
MAR 24 1986

U.S. ATTORNEY
GREAT FALLS, MONTANA

UNITED STATES OF AMERICA,)

Plaintiff,)

NO. CV-86-003-GF

vs.)

GRACE PETROLEUM CORPORATION,)

O R D E R

Defendant.)

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the attorneys for all parties are directed to attend a preliminary pretrial conference before this court at 10:30 o'clock a.m., on Wednesday, the 23rd day of April, 1986, at Great Falls, Montana, and then ascertain the issues, stipulate to facts not in dispute and otherwise simplify the issues. (See Rule 235 of the Rules of this court.)

THE COURT FINDS THAT COUNSEL HAVE HAD IN EXCESS OF FOUR MONTHS WITHIN WHICH TO SETTLE THIS MATTER, HAVING BEEN ADVISED BY COUNSEL THAT TWO SETTLEMENT PROPOSALS WERE

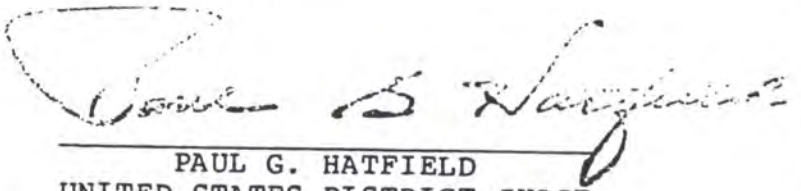
1 TRANSMITTED TO THE PLAINTIFF AT THAT TIME. THE COURT WILL
2 PROCEED TO SET A DISCOVERY SCHEDULE AT THIS TIME.

3 It is the policy of the court not to sign ex parte
4 motions for extension of time. If it is impossible for any
5 counsel to attend the pretrial conference at the above time,
6 application for an extension of time must be made in writing
7 no less than seven days in advance. The application must
8 supply information concerning whether any counsel wishes to
9 be heard in opposition to the extension.

10 Counsel are advised that the court will consider, in
11 cases with out-of-town counsel, a request for a telephone
12 conference call. It is understood, however, the party
13 requesting the conference call is required to make all
14 arrangements and pay the charges incurred.

15 PRETRIAL STATEMENTS ARE DUE FROM COUNSEL ON OR BEFORE
16 APRIL 16, 1986.

17 DATED this 20th day of March, 1986.

18 
19
20 PAUL G. HATFIELD
21 UNITED STATES DISTRICT JUDGE
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

STANDING ORDER RE PRETRIAL PROCEDURE

JUDGE HATFIELD

The purpose of pretrial procedure is to assist in the just, speedy and inexpensive determination of litigation. Inconsistent with this purpose is the ancient principle that a judge's responsibility is simply to preside over trials and that it is the responsibility of counsel to initiate all the preliminaries to trial. Due to the congestion in modern courts, case control is becoming increasingly important. And the control, from the time a case is filed until it is disposed of, rests with the judge.

The initial step in the pretrial procedure utilized by the United States District Courts for the District of Montana is the preliminary pretrial conference. That conference is to be held within 120 days after the filing of a civil action. The conduct of the preliminary pretrial conference is guided by Rule 235-3, Rules of Procedure of the United States District Court for the District of Montana and sets forth the scope of the preliminary pretrial conference. In order to implement Rule 235-3 in an efficient and comprehensive manner and further expedite pretrial procedures, this court has established a format, hereinafter set forth, to be utilized in the preliminary pretrial conferences held before this court.

The ultimate objective of the preliminary pretrial conference is to (1) set a final trial date, and (2) establish a discovery schedule for a pending action. Determination of an appropriate trial date can only be accomplished if the triable issues have been accurately ascertained and the complexity of the action has been determined. Therefore, an effective preliminary pretrial conference will result only if the parties have adequately assessed the complexity of the action at issue prior to the conference. Adequate assessment of an action will require the participating attorneys to undertake an in-depth evaluation of the factors as set forth in Rule 235-3.

In order to assist the participating attorneys in determining an appropriate trial date, this court must be apprised of the complexity of a particular action as envisioned by the attorneys. Specifically, the court must be informed of the complexity of discovery which a particular action entails as well as pertinent

legal questions which will have to be determined in advance of trial. An acute awareness of these factors by both the parties and the court will result in a more efficient utilization of the time of everyone concerned.

For this reason the participating attorneys will be required to prepare a written statement detailing the following:

(1) Any problems of federal jurisdiction. If a party intends to challenge jurisdiction that party shall be prepared to file an appropriate motion at the time of the conference;

(2) The contentions of the respective parties and the legal theories upon which the action or defense is founded;

(3) Any problems of law which should be decided by the court in advance of trial. In this regard, the participating attorneys shall be prepared to file any motions for summary judgment, the basis of which is evident at the time of the conference;_____

(4) Any amendments to the pleadings deemed to be necessary. The participating attorneys shall be prepared to make all contemplated requests for amendments to pleadings at the time of the conference;

(5) The anticipated extent of discovery. In this regard the statement shall set forth:

(a) a proposed plan and schedule of discovery which includes

(i) intended requests for admissions

(ii) intended requests for answers to interrogatories

(iii) names of witnesses that will be deposed, setting forth the method and place of taking the deposition

(iv) the documents which the parties wish to inspect; the parties shall be prepared to indicate those documents which they will produce and those which will not be produced absent a ruling on an appropriate motion to produce;

(b) a proposed timetable for the accomplishment of the various steps in the discovery of each matter; the parties shall be prepared to discuss and establish a mutually acceptable schedule for the accomplishment of each discovery matter;

(c) any limitations proposed to be placed on discovery;

(d) the date upon which discovery will be completed.

The statement so prepared shall be submitted to the court not later than SEVEN (7) days prior to the date set for the preliminary pretrial conference.

Upon review of the statements submitted and the discussion elicited at the conference, the court will set the trial date. It is the intention of this court that the date so set will be a final date, which will be vacated only upon a showing by the moving party that there exists good cause for such vacation.

Any problems concerning discovery which may arise after the preliminary pretrial conference may be resolved by an appropriate motion filed pursuant to Rule 26(f) or any other pertinent rule as set forth in the Federal Rules of Civil Procedure.

..... s/Paul G. Hatfield ..

PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE

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1986 MAR 21 AM 10:12
LOU ALEKSICH, JR. CLERK
LOU ALEKSICH, JR. CLERK
BY ~~RENEE W. LEE~~
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,) NO. CV-86-003-GF
vs.)
GRACE PETROLEUM CORPORATION,) ORDER
Defendant.)

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the attorneys for all parties are directed to attend a preliminary pretrial conference before this court at 10:30 o'clock a.m., on Wednesday, the 23rd day of April, 1986, at Great Falls, Montana, and then ascertain the issues, stipulate to facts not in dispute and otherwise simplify the issues. (See Rule 235 of the Rules of this court.)

THE COURT FINDS THAT COUNSEL HAVE HAD IN EXCESS OF FOUR MONTHS WITHIN WHICH TO SETTLE THIS MATTER, HAVING BEEN ADVISED BY COUNSEL THAT TWO SETTLEMENT

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DEPARTMENT OF JUSTICE
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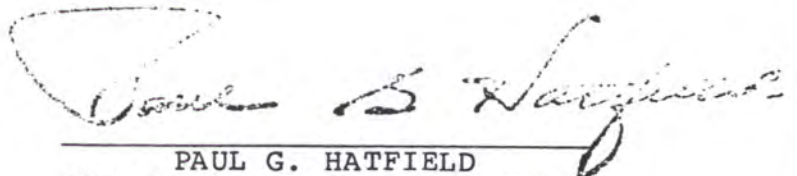
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16 APRIL 16, 1986.

17 DATED this 20th day of March, 1986.

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20

PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

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JUDGE HATFIELD

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(3) Any problems of law which should be decided by the court in advance of trial. In this regard, the participating attorneys shall be prepared to file any motions for summary judgment, the basis of which is evident at the time of the conference;_____

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s/Paul G. Hatfield

PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE

1 JACK RAMIREZ
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. BOX 2529
5 BILLINGS, MT 59103-2529
6 (406) 252-3441

7 Attorneys for GRACE
8 PETROLEUM CORPORATION

9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF MONTANA
12 GREAT FALLS DIVISION

13 UNITED STATES OF AMERICA,)

14 Plaintiff,)

15 v.)

Civil Action No. CV-86-003-GF

16 GRACE PETROLEUM CORPORATION,)


17 Defendant.)

18
19 MOTION TO ENLARGE TIME

20 Grace Petroleum Corporation, defendant in the above-
21 entitled action, by Jack Ramirez, its attorney, moves the Court
22 for an order extending the time in which defendant may respond
23 to the plaintiff's motion to strike demand for jury trial from
24 May 5, 1986 to June 5, 1986, on the grounds that additional
25 time to research the issues presented in the motion and adequately
respond are needed, and plaintiff's counsel, Brian G. Donohue,
Environmental Enforcement Section, has no objection to said
extension.

1 DATED: April 30, 1986.

2 CROWLEY, HAUGHEY, HANSON, TOOLE &
3 DIETRICH

4 by 
5 JACK RAMIREZ
6 P. O. Box 2529
Billings, MT 59103-2529

7 (406) 252-3441

8 Attorneys for GRACE PETROLEUM CORPORATION
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Mary Scrim Yerger

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MONTANA
3 GREAT FALLS DIVISION

4 UNITED STATES OF AMERICA,)
5 Plaintiff,)
6 v.) Civil Action No. CV-86-003-GF
7 GRACE PETROLEUM CORPORATION,)
8 Defendant.)

9
10 ORDER

11 Defendant, Grace Petroleum Corporation, having applied
12 to this Court for an order extending the time in which defendant
13 is to respond to plaintiff's motion to strike demand for jury
14 trial, and plaintiff having no objection thereto and good cause
15 appearing therefore,

16 IT IS HEREBY ORDERED that the application be granted and
17 that the time in which defendant is required to respond to
18 plaintiff's motion to strike demand for jury trial is hereby
19 extended to June 5, 1986.

20 DATED: _____, 1986.

21
22
23 UNITED STATES DISTRICT JUDGE
24
25

Donohue

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

JAMES M. HAUGHEY
NORMAN HANSON
BRUCE R. TOOLE
JOHN H. DIETRICH
THOMAS N. KELLEY
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EDD LEE
STUART W. CONNER
HERBERT I. PIERCE, III
RONALD R. LODDERS
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. SITES

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P. O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
TELECOPIER (406) 256-8526

CALE CROWLEY
OF COUNSEL

February 24, 1986

L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LEHMAN
T. G. SPEAR
LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER MANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. MCLEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LAMON, III
MICHAEL S. DOCKERY
WILLIAM J. MATTIX
PETER F. HASEIN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MICHAEL B. EVANS
MARY S. YERGER
JON T. DYRE
DENNIS NETTIKSIMMONS
MICHAEL C. WALLER
SHARON NOVAK

Mr. Brian G. Donohue
Attorney
Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Re: United States vs. Grace Petroleum Corporation

Dear Brian:

This will confirm the arrangements for the settlement conference which we have been discussing. I was contacted by Al Smith of EPA, after he had spoken with you, and we have been able to find a date convenient to everyone.

The meeting will be held at the Department of Justice on March 12, 1986, beginning at 9:00 A.M. Mr. Smith indicated that you would reserve a conference room for the meeting. We will simply ask for you at the security desk. It is my understanding that the security guard will then direct us to the appropriate conference room or office.

Thank you for your help in arranging for the conference.

Very truly yours,

Jack
Jack Ramirez

JR:lm

9
65-11-2383

44	DEPARTMENT OF JUSTICE	R
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	LANDS	C
		D

Memorandum



Donohue, B

Subject

UNITED STATES v. GRACE PETROLEUM CORP.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

2/21/86
CV 86-3-GF
CI 85-0429

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement
Section
Land & Natural Resources Div.

From

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, Mt 59403

Enclosed are copies of Judge Hatfield's Order denying defendant's motion to dismiss and allowing them 20 days within which to further plead.

Enc.

dln

cc: Alfred C. Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

40-5-1-1-2383

44	DEPARTMENT OF JUSTICE	RECORD
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	LANDS	

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

2-19-86
FILED

FEB 19 1986

UNITED STATES OF AMERICA

Plaintiff

-VS-

GRACE PETROLEUM CORPORATION

Defendant

LOU ALEKSICH, JR. CLERK

BY ~~RENEE WELDELE~~

Deputy Clerk

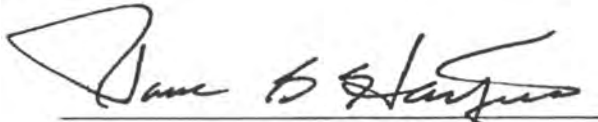
ORDER

Civil No. CV-86-3-GF

The motion to dismiss of the defendant, Grace Petroleum Corporation, having been filed on the 22nd day of January, 1986, and said motion not having been supported by a brief filed in accordance with the provisions of Rule 7r220-1 of the Rules of this Court,

IT IS THEREFORE ORDERED, and this does order, that the said motion to dismiss be, and the same is hereby denied, and the defendant, Grace Petroleum Corporation is granted twenty (20) days within which to further plead.

DATED this 19 day of February, 1986.



Paul G. Hatfield
United States District Judge

65-1-1-2383	
DEPARTMENT OF JUSTICE	
44	FEB 25 1986
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RECORD	
POLLUTION/ENFORCEMENT	

Memorandum

**Subject**

UNITED STATES v. GRACE PETROLEUM
CORPORATION
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

1/27/86
CV 86-3-GF
CI 85-0429

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement
Section
Land and Natural Resources Div.

From

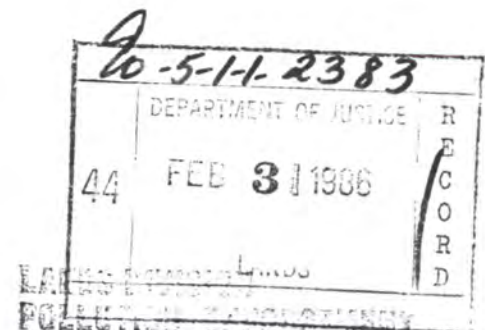
GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, Mt 59403

Enclosed are copies of Motion to Dismiss received from
defendant's attorney on 1/24/86.

Enc.

dln

cc: Alfred C. Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

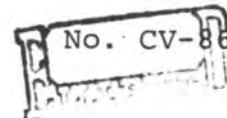


Goelker, 18

1 Jack Ramirez
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11
12 UNITED STATES OF AMERICA,)
13 Plaintiff,)
14 vs.)
15 GRACE PETROLEUM CORPORATION,)
16 Defendant.)



MOTION TO DISMISS

17
18 Comes now the defendant and moves to dismiss the com-
19 plaint for the reason that it fails to state a claim upon which
20 relief can be granted.

21 Dated this 22nd day of January, 1986.

22 CROWLEY, HAUGHEY, HANSON,
23 TOOLE & DIETRICH

24 By Jack Ramirez
25 P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

CERTIFICATE OF SERVICE

This is to certify that the foregoing was du-
served by mail upon parties or attorneys of re-
cord at their address or addresses this 22nd
day of Jan, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

by Jack Ramirez
- 2500 - Billings, Mont.

60-5-14-2383	
DEPARTMENT OF JUSTICE	
44	JAN 27 1986



DTB:BGD:bab
90-5-1-1-2383

U.S. Department of Justice

FILE

Washington, D.C. 20530

January 24, 1986

FEDERAL EXPRESS

Brent D. Ward
United States Attorney
District of Utah
Room 446, U.S. P.O. &
Courthouse Bldg.
350 S. Main Street
Salt Lake City, Utah 84101

Re: United States v. United States Steel
Corporation, Geneva Works

Dear Mr. Ward:

Enclosed is the original signed complaint in the above-captioned enforcement action. The complaint alleges violations of the Clean Water Act, 33 U.S.C. § 1319. Also enclosed is a first set of interrogatories.

We would appreciate your assigning an Assistant United States Attorney to this case as soon as possible. In addition, we would appreciate your signing and serving this complaint in accordance with your local rules and practice. The defendant's registered agent for service is:

Prentice Hall Corporation Systems
185 South State Street, Suite 600
Salt Lake City, Utah 84111

By copy of this letter, I am requesting that a copy of the litigation report prepared by the Environmental Protection Agency be sent to you by Al Smith, EPA's Assistant Regional Counsel assigned to this case.

As you know, litigation conducted on behalf of the Environmental Protection Agency by the Department of Justice is subject to a Memorandum of Understanding, under which the Department is required to evaluate and file an EPA referral within 60 days of its receipt or to report to the Administrator of the EPA why the case may not be filed. If the Department of Justice fails to file a case after 150 days have transpired from the date of referral from EPA to the Department of Justice and after the EPA has requested

the Department to initiate the action but the Attorney General has failed to do so, the EPA may initiate the action itself without relying on or being subject to the supervision of the Department of Justice or the United States Attorney.

In view of the foregoing, we would appreciate your assistance in insuring that this case is promptly filed. If your office cannot file this case promptly, please let me know as soon as possible so that we can work out any problems you may have.

Further, in order to ensure that all matters are properly coordinated, the EPA has directed its Regional Counsels not to request the Department, including the United States Attorneys, to withhold or delay filing of complaints sent by the Department. Accordingly, should your office be contacted by EPA officials requesting that you withhold or delay the filing of this action, I would appreciate being promptly notified of this contact. Similarly, should the case result in a settlement, these same procedures require that the settlement must be approved both by EPA and the Assistant Attorney General for the Land and Natural Resources Division. See United States Attorneys' Manual § 5.3.633.F.

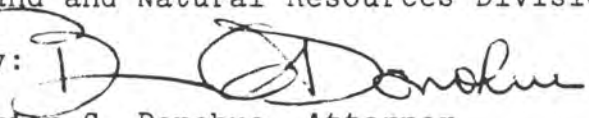
We would appreciate your sending us a certified copy of the complaint when it is filed and copies of all subsequent pleadings and orders in this case.

Thank you for your prompt attention to this matter. We look forward to working with your office. If I can be of any assistance in helping you expedite this matter, please let me know.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue, Attorney
Environmental Enforcement Section

Enclosure

cc: Alan Morrissey, Esq.
Al Smith, Esq.

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	CIVIL ACTION NO.
)	
UNITED STATES STEEL CORPORATION,)	
GENEVA WORKS,)	
)	
Defendant.)	
_____)	

COMPLAINT

The United States of America, by the authority of the Attorney General and at the request of and on behalf of the United States Environmental Protection Agency ("EPA"), alleges as follows:

1. This is a civil action pursuant to Section 309(b) and (d) of the Clean Water Act (the "Act"), 33 U.S.C. § 1319(b) and (d), for violations of Section 301 of the Act, 33 U.S.C. § 1311, and certain terms and conditions of a National Pollutant Discharge Elimination System ("NPDES") permit issued to the defendant by EPA pursuant to Section 402 of the Act, 33 U.S.C. § 1342, concerning the defendant's discharge of pollutants into navigable waters.

2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. § 1345 and Section 309 of the Act, 33 U.S.C. § 1319. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and (c) and 33 U.S.C. § 1319(b).

3. Notice of the commencement of this action has been provided to the State of Utah pursuant to 33 U.S.C. § 1319(b).

4. The defendant, United States Steel Corporation, Geneva Works, is an integrated iron and steel mill incorporated in the State of Delaware and is authorized to do business in the State of Utah.

5. The defendant is a person as defined under the Act, 33 U.S.C. § 1362(5).

6. The defendant discharges and discharged pollutants from the plant into Utah Lake, which is a navigable water as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7).

7. Section 301 of the Act, 33 U.S.C. § 1311, prohibits the discharge of pollutants into navigable waters except, inter alia, in compliance with the terms and conditions of an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

8. Section 309(b) of the Act, 33 U.S.C. § 1319(b), authorizes the Administrator of EPA to commence a civil action for any violation of a condition or limit in a permit issued by EPA.

9. On September 29, 1981, EPA issued to the defendant NPDES Permit No. UT-0000361 (the "permit") authorizing the discharge of specified pollutants in specified amounts into Utah Lake.

10. The permit, inter alia, establishes daily average and daily maximum effluent limits for Total Suspended Solids (TSS), Cyanide A, and Ammonia-Nitrogen.

FIRST CLAIM FOR RELIEF

11. The allegations in paragraphs 1 through 10 are incorporated herein by reference as if fully alleged below.

12. Between March-June, 1985, the defendant exceeded the daily average limitation for Cyanide A and/or Ammonia - Nitrogen on at least 6 occasions in violation of the NPDES permit.

SECOND CLAIM FOR RELIEF

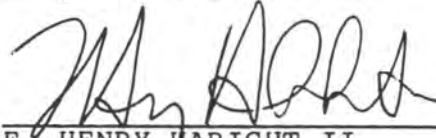
13. The allegations in paragraph 1 through 10 are incorporated herein by reference as if fully alleged below.

14. Between March-July, 1985, the defendant exceeded the daily maximum limitation for TSS, Cyanide A, and/or Ammonia-Nitrogen on at least 13 occasions in violation of the NPDES permit.

WHEREFORE, the United States of America prays that:

1. The defendant be ordered to pay civil penalties not to exceed \$10,000 per day for each violation of its NPDES permit or Section 301 of the Act, 33 U.S.C. § 1311;
2. The United States be awarded the costs and disbursements of this action; and
3. This Court grant the United States such other relief as it may deem just and proper.

Respectfully submitted,

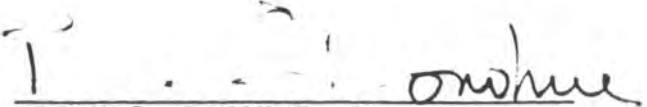


F. HENRY MABICHT II
Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

BRENT D. WARD
District of Utah

By: _____

Assistant United States Attorney
P.O. Box 45275
Salt Lake City, Utah 84145
(801) 524-5682


BRIAN G. DONOHUE, Attorney
Environmental Enforcement Section
Land and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530
(202) 633-5590

OF COUNSEL:

ALFRED C. SMITH
Office of Regional Counsel
U.S. Environmental Protection Agency
Region VIII
Denver, Colorado 80202-2413

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	Civil Action No.
)	
v.)	
)	
UNITED STATES STEEL)	
CORPORATION, GENEVA WORKS)	
)	
Defendant.)	
_____)	

UNITED STATES OF AMERICA'S
FIRST SET OF INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, plaintiff United States of America hereby requests that defendant United States Steel Corporation, Geneva Works, answer under oath the following interrogatories separately and fully in writing. Answers are to be served upon counsel for the United States at the Office of the United States Attorney for the District of Utah, U.S. Post Office and Court House, 350 South Main, Room 200, Salt Lake City, Utah 84111, within 30 days after service of this notice. The answers hereto should include all information known up to the date of verification hereof.

INSTRUCTIONS

1. Identification of a natural person. Whenever in these interrogatories there is a request to identify a natural person, state:

- (a) his full name;
- (b) his present or last known business address;
- (c) his present or last known employer and position with that employer; and

- (d) his employer and position at the time relevant to the particular interrogatory involved.

2. Identification of persons with responsibility for certain matters. Whenever in these interrogatories there is a request to identify each person with responsibility over certain matters, the request includes each person with other than wholly clerical duties. The request is not limited to the head of a department or section, but includes subordinate employees other than clerical staff.

3. Identification of an entity other than a natural person. Whenever in these interrogatories there is a request to identify a "person" which is a business organization or other entity not a natural person, state:

- (a) the full name of such organization or entity; and
- (b) the present or last known address of such organization or entity.

4. Identification of act or activity. Whenever in these interrogatories there is a request to identify an "act" or "activity":

- (a) state each transaction or action constituting the act or activity;
- (b) state the date it occurred;
- (c) state the place it occurred;
- (d) identify each document referring or relating to the act or activity; and

- (e) identify each person participating or engaging in the act or activity.

5. Identification of a communication. Whenever in these interrogatories there is a request to identify a "communication":

- (a) state the date of the communication;
- (b) specify the place where it occurred;
- (c) identify in accordance with Instruction 1 each person who originated, received, participated, or was present during such communication;
- (d) state the type of communication (letter, telegram, telephone conversation, etc.);
- (e) identify in accordance with Instruction each document relating or referring to, or comprising such communication; and
- (f) state the substance of the communication.

6. Identification of a document. Whenever in these interrogatories there is a request to identify a "document" state:

- (a) its date;
- (b) its author and signatory;
- (c) the type of document (letter, memorandum, contract, report, accounting record, etc.);

- (d) its title;
- (e) its substance;
- (f) its addressee and all other persons receiving copies;
- (g) its custodian;
- (h) its present or last known location; and
- (i) if the document was, but no longer is in your possession or subject to your control, state what was done with the document, who disposed of it, why it was disposed of and when it was disposed of.

7. Use of documents in place of an answer.

Whenever a full and complete answer to any interrogatory or part of an interrogatory is contained in a document or documents, the documents, if appropriately identified as answering a specific number interrogatory or part of an interrogatory may be supplied in place of a written answer.

8. Numerical information. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

9. Sources of information. For each interrogatory answer, identify each person who provided information considered in preparing that answer, specifying the nature of the information provided. In answering these interrogatories every source of information to which defendant has access should be consulted, regardless of whether the source is within defendant's immediate possession or control. All documents or other information in the possession of experts or consultants should be consulted.

10. Partial answers. If any interrogatory cannot be answered fully, as full an answer as possible should be provided. State the reason for your inability to answer fully, and give any information, knowledge or belief defendant has regarding the portion unanswered.

11. Time period. Unless otherwise indicated, these interrogatories apply to the time period from January 1, 1981, until the trial of this matter.

12. Supplemental answers. These interrogatories are continuing; supplemental answers must be filed pursuant to Fed. R. Civ. P. 26(e) between the date these interrogatories are answered and the time of trial.

13. Deletions from documents. Where anything has been deleted from a document produced in response to an interrogatory;

(a) specify the nature of the material deleted;

- (b) specify the reason for the deletion; and
- (c) identify the person responsible for the deletion.

14. Claim of privilege. If objection is made to answering any interrogatory or disclosing the substance of any document on the basis of any claim of privilege, defendant is requested to specify in writing the nature of such information or documents, along with the nature of the privilege claimed, so that the Court may rule on the propriety of defendant's objection. In the case of documents, defendant should state:

- (a) the title of the document;
- (b) the nature of the document (interoffice memorandum, correspondence, report, etc.);
- (c) the author or sender;
- (d) the addressee;
- (e) the date of the document;
- (f) the name of each person to whom the original or a copy was shown or circulated;
- (g) the names appearing on any circulation list relating to the document;
- (h) the basis upon which privilege is claimed; and
- (i) a summary statement of the subject matter of the document in sufficient detail to permit the court to rule on the propriety of the objection.

DEFINITIONS

1. "Person" unless otherwise specified means a natural person, firm, partnership, association, corporation, proprietorship, government body, government agency or commissison or any other organization or entity.

2. "Document" is defined as any recording of information in tangible form. It includes, but is not limited to, memoranda, reports, evaluations, correspondence, communications, intra-office memoranda, inter-office communications, agreements, contracts, invoices, checks, journals, ledgers, telegrams, handwritten notes, periodicals, pamphlets, computer or business machine print-outs, accountants' work papers, accountants' statements and writings, notation or records of meetings, printers' gallerys, books, papers, speeches, public relations issues, advertising, material filed with government agencies, office manuals, employee manuals or office rules and regulations reports of experts, any other written matter, tape recordings or other sound or visual reproduction materials, computer data bases, or any tangible or physical objects, however produced or reproduced upon which words or other information are affixed or recorded or from which by appropriate transcription written matter or a tangible thing may be produced. Where a document is to be identified or produced, all originals or if not available, copies, together with all prior drafts, or all copies which are in any manner different from the original, are to be identified or produced.

3. "Relating to" means constituting, defining, containing, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

4. "EPA" means the United States Environmental Protection Agency.

5. "Discharge" includes a discharge of a pollutant or pollutants to navigable waters from a point source.

6. "Pollutant" is defined in 33 U.S.C. § 1362.

7. "U.S. Steel" shall mean defendant United States Steel Corporation, its subsidiaries, divisions, officers, employees, agents, servants, and, unless privileged, its attorneys.

8. The "Geneva Works" means the integrated steel mill owned and operated by U.S. Steel at Geneva, Utah, including its wastewater treatment and related facilities which discharge to Utah Lake.

9. The "Geneva Works permit" means National Pollution Discharge Elimination System (NPDES) Permit No. UT-0000361 as issued, administratively extended or renewed.

10. The "Geneva Works permit limits" mean any water pollutant discharge limitations or conditions contained in the Geneva Works permit.

11. The "State" means the State of Utah, including its departments, agencies and officials.

INTERROGATORIES

1. State all water pollutant discharge limitations, including any extensions or modifications, U.S. Steel contends have applied since September 29, 1981, at its outfalls at the Geneva Works, specifying the source of each of those limitations.

2. Are any of the values contained in any Discharge Monitoring Reports ("DMRs") submitted by U.S. Steel to EPA or the State relating to the Geneva Works inaccurate or misleading? If so, for each such value state in what respect it is inaccurate or misleading; what U.S. Steel contends the correct value(s) is (are), specifying the basis for this calculation and identifying any documents relevant to this calculation; the reason for the original error; identify all persons responsible for calculating the original value and the new value; and state whether the allegedly correct value complies with the Geneva Works permit limits.

3. List each discharge of water pollutants from any sources at the Geneva Works exceeding the Geneva Works permit limits for such source, or any discharge of water pollutants without a permit, stating for each such discharge the date and duration of the discharge; the source; the quantity and concentration of pollutant discharged; all sampling or testing done with respect to the discharge; any explanation or reason known to or hypothesized by U.S. Steel why the discharge exceeded the Geneva Works permit limits; and an identification of all acts taken to respond to the discharge or to prevent future discharges, including equipment

changes, changes in operating or maintenance procedures or operator training or disciplinary actions.

4. Does U.S. Steel contend that it could not prevent the discharges listed in response to Interrogatory No. 3 above from exceeding the Geneva Works permit limits? If so, specify each and every such discharge and for each, state all facts supporting the contention that such violations were not preventable.

5. Does U.S. Steel contend that operator error caused any of the discharges listed in response to Interrogatory No. 3 above to exceed the Geneva Works permit limits? If so, identify each employee whose error U.S. Steel contends to have contributed to the discharge; identify all acts of the employee which are contended to have resulted in the discharge exceeding the Geneva Works permit limits; identify the immediate supervisor of the employee; and identify all documents or communications containing or relating to instructions to the employee regarding discharge limitations, reduction of pollutant discharges, or measures to be taken in the event of discharges in excess of the Geneva Works permit limits.

6. Does U.S. Steel contend that equipment malfunction or defect, including design defect, caused any of the discharges listed in response to Interrogatory No. 3 above to exceed the Geneva Works permit limits? If so, identify the type of equipment; state the manufacturer of the equipment, the model number and any other identification number for the equipment;

describe the malfunction or defect; state in what manner the malfunction or defect is alleged to have caused the discharge to exceed the Geneva Works permit limits; identify all persons responsible for maintaining the equipment and/or preventing malfunctioning; identify all documents containing instructions for maintaining or servicing or preventing malfunction of the equipment; identify all documents containing instructions for maintaining or servicing or preventing malfunction of the equipment; identify the persons responsible for purchasing or approving the purchase of the equipment; identify all persons responsible for review of the design, operation, or suitability of the equipment; and state whether the equipment is still in U.S. Steel's possession and if not, where it is.

7. Does U.S Steel contend that it has not been feasible to comply with any of the limitations contained in the Geneva Works permit? If so, state the basis of this contention, identifying all persons, including experts or consultants with knowledge of the basis for this contention, and identifying all documents relating to this contention.

8. During the week preceeding each discharge identified in response to Interrogatory No. 3 above, had U.S. Steel made any production process changes, including equipment or formulation changes, which were designed to or had the effect of varying production time or the production process? If so, describe any such process changes, identifying any documents relating to such changes.

9. Describe each measure considered by U.S. Steel to reduce water pollutant discharges or to achieve compliance with the Geneva Works permit limits, including but not limited to modifications of production processes, and modifications of pollution control facilities, including in the description, the nature of the measure, the period of time during which it was considered, and an identification of the persons who participated in the consideration or evaluation of the measure, identifying any documents relating to such consideration. If any such measure was implemented, identify each action taken to implement it, specifying the dates, the action, the costs or expenditures relating to each such act, including operation and maintenance costs, stating what portion of the expense, if any, was eligible for investment tax credit and, if applicable, the tax credit claimed, and identifying all documents relating to such costs or expenditures and tax credits. For measures not implemented, state the reason the measure was not implemented and the estimated cost of the measure, including operation and maintenance costs.

10. Identify each person now or formerly in the employ of U.S. Steel who has or had responsibility with regard to monitoring, analysis and reporting of pollutant discharges from the Geneva Works; compliance by the Geneva Works with water pollution control laws and regulations; design, management, control or evaluation of production or the production process at the Geneva Works insofar as it affects or may affect the discharge of water pollutants;

training and supervision of employees working with processes or equipment that produces or controls water pollutants; operation and maintenance of water pollution control equipment at the Geneva Works; and initiation and evaluation of budget requests for pollution control or other capital equipment.

11. Identify all persons who work for or have worked for U.S. Steel, or who are or have been consultants to U.S. Steel or who work for or have worked for consultants to U.S. Steel who have knowledge of the nature and amount of water pollutants discharged from the Geneva Works including sampling and testing for total suspended solids, cyanide A, phenols, ammonia-nitrogen (a&N) and oil and grease; measures considered or taken by U.S. Steel to reduce discharges of water pollutants from the Geneva Works; budgeting, financial, and technical analysis of water pollution control equipment and other capital improvement projects; operation and maintenance of water pollution control equipment at the Geneva Works; sources of wastewaters at the Geneva Works; financial aspects of the Geneva Work's, including cash flows, operating expenses and profitability; and initiation and evaluation of budget requests for pollution control or other capital equipment.

12. Identify each person, firm or corporation, including employees, whom U.S. Steel has consulted regarding water pollution control at the Geneva Works, stating when such consultant was retained; the nature of any advice or opinion rendered by the consultant; whether any documents were given to the consultant in connection with its work,

identifying all such documents; whether any documents were prepared by the consultant in connection with his work, identifying all such documents; and whether any document was prepared by U.S. Steel or its agents or other consultants relating to any advice or opinion, or document prepared by the consultant, identifying all such documents.

13. Identify all entities which were predecessors to or connected with U.S. Steel with regard to ownership or operation of the Geneva Works, including subsidiaries, divisions, affiliates, partnerships, joint ventures or other entities; state what discussions, if any, U.S. Steel had with any such entity relating to the wastewater treatment facilities and compliance with the Geneva Works permit, and identify all documents relating to such discussions.

14. State whether U.S. Steel has any actual or potential insurance coverage, including comprehensive liability, applicable to any of the claims asserted in this action by the United States. If so, identify the insurers and state the policy number and the amount of the insurance, identifying all such policies. State whether any insurance company has ever performed an environmental risk assessment or other study regarding U.S. Steel compliance with water pollution control laws, identifying the company and the assessment or study.

15. Has U.S. Steel ever orally reported to EPA or the State, by telephone or otherwise, any discharge of pollutants from the Geneva Works which exceeded the Geneva Works permit

limits? If so, identify each such oral report, giving exact dates and times, all persons authorizing or making such reports, all persons to whom such reports were made, and the substance of each such report. Identify all documents relating to the above, including any records of telephone calls, giving their present location.

16. State each and every occurrence of oil sheen, oil globules or oil spills in Utah Lake observed at or near the Geneva Works known to U.S. Steel and identify all documents relating to the same including their present location. For each occurrence state the exact dates and times U.S. Steel first became aware of such occurrence, the duration of the same, and all persons making or authorizing such observances or reports and all persons to whom such reports were made.

17. State the methods, procedures or techniques for computing monthly or daily average discharge results reported in U.S. Steel's discharge monitoring reports for each and every monthly reporting period from January, 1985, to the present at the Geneva Works, stating for each month during the above period the total number of times during each month that sampling was conducted for each parameter in the Geneva Works permit and the exact dates and times of such sampling; the total number of samples used to compute the monthly average for each parameter and the specific method used to compute that average; all sampling results for each parameter obtained during each month; the average result for

each parameter which was obtained, if different from that reported in discharge monitoring reports for each month; the sampling methods or techniques used; and identify all documents relating to the above, including any statements of policy, procedures, schedules, or rationales relating thereto.

18. State the methods, procedures or techniques for computing the daily maximum discharge results for each parameter in the Geneva Works permit for each and every monthly reporting period from January, 1985, to the present at the Geneva Works, stating for each month during the above period the total number of times during each month that sampling was conducted for each parameter and the exact dates and times of such sampling; all sampling results for each parameter obtained during each month; the sampling methods or techniques used; the methods, procedures or techniques employed in reporting the results to the State or EPA in discharge monitoring reports, including the reasons for employing such methods, procedures or techniques; and identify all documents relating to the above, including any statements of policy, procedures, schedules or rationales relating thereto, giving the present location of all such documents.

19. Identify all persons having responsibility for or otherwise having substantial knowledge of the financial condition and affairs of U.S. Steel and/or any parent or holding company.

20. Identify all experts expected to testify at trial, stating the subject matter on which the expert is

expected to testify, and the substance of the facts and opinion to which the expert is expected to testify with a summary of the grounds for each opinion.

21. Identify all witnesses other than those identified in response to Interrogatory No. 20 above, who are expected to testify at trial, summarizing their expected testimony and identifying all documents upon which they intend to rely.

Respectfully submitted,

BRENT D. WARD
United States Attorney
District of Utah

By: _____

Assistant United States Attorney

A handwritten signature in black ink, appearing to read "B. Donohue", is written over a horizontal line.

BRIAN DONOHUE, Attorney
Environmental Enforcement Section
Land and Natural Resources Division
U.S. Department of Justice
Washington, DC 20530
(202) 633-5590

OF COUNSEL:

ALFRED C. SMITH
United States Environmental
Protection Agency - Region VIII
1860 Lincoln Street
Denver, Colorado 80295-0699



U.S. Department of Justice

DTB:BGD:bab
90-5-1-1-2383

Washington, D.C. 20530

December 23, 1985

FILE

Byron H. Dunbar
United States Attorney
District of Montana
5043 Federal Building
26th Street and 3rd Avenue, N.
Billings, Montana 59103

Re: United States v. Grace Petroleum Corporation

Dear Mr. Dunbar:

Enclosed is the original signed complaint in the above-captioned enforcement action. The complaint alleges violations of the Environmental Protection Agency's Underground Injection Control regulations ("UIC") promulgated under the Safe Drinking Water Act, 42 U.S.C. § 300h. This is the first case approved for filing under the UIC program.

We would appreciate your assigning an Assistant United States Attorney to this case as soon as possible. In addition, we would appreciate your signing and serving this complaint in accordance with your local rules and practice. The defendant's registered agent for service is:

CT Corporation Systems
406 Fuller Avenue
Helena, Montana 59601

Also enclosed for your review is the litigation report prepared by EPA.

As you know, litigation conducted on behalf of the Environmental Protection Agency by the Department of Justice is subject to a Memorandum of Understanding, under which the Department is required to evaluate and file an EPA referral within 60 days of its receipt or to report to the Administrator of the EPA why the case may not be filed. If the Department of Justice fails to file a case after 150 days have transpired from the date of referral from EPA to the Department of Justice and after the EPA has requested the Department to initiate the action but the Attorney General has failed to do so, the EPA may initiate the action itself without relying on or being subject to the supervision of the Department of Justice or the United States Attorney.

In view of the foregoing, we would appreciate your assistance in insuring that this case is promptly filed. If your office cannot file this case promptly, please let me know as soon as possible so that we can work out any problems you may have.

Further, in order to ensure that all matters are properly coordinated, the EPA has directed its Regional Counsels not to request the Department, including the United States Attorneys, to withhold or delay filing of complaints sent by the Department. Accordingly, should your office be contacted by EPA officials requesting that you withhold or delay the filing of this action, I would appreciate being promptly notified of this contact. Similarly, should the case result in a settlement, these same procedures require that the settlement must be approved both by EPA and the Assistant Attorney General for the Land and Natural Resources Division. See United States Attorneys' Manual §5.3.633.F.

We would appreciate your sending us a certified copy of the Complaint when it is filed and copies of all subsequent pleadings and orders in this case.

Thank you for your prompt attention to this matter. We look forward to working with your office. If I can be of any assistance in helping you expedite this matter, please let me know.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: 

Brian G. Donohue, Attorney
Environmental Enforcement Section

Enclosure

cc: Alan Morrissey, Esq.
Al Smith, Esq.



U.S. Department of Justice

DTB:BGD:bab
90-5-1-1-2383

FILE

Washington, D.C. 20530

January 22, 1986

Al Smith, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VIII
999 18th Street, Denver Place
Denver, Colorado 80202

Re: United States v. Grace Petroleum Corp.

Dear Al:

This will confirm our meeting of January 16, 1986,
regarding the above-captioned case.

You indicated that, after discussions with Laura Clemens of your office, that the first claim for relief in the complaint, regarding the abandonment of Bulk Elk #2, may be inaccurate in that Region VIII is in the process of permitting that well. You said you would check with Laura about this and let me know as soon as possible. If EPA is in the process of permitting that well, we would of course want to eliminate that claim from the complaint. Please let me know.

In addition, as we discussed, we should begin to draft interrogatories in this case. You indicated you would ask Laura to draft an initial set. Please give me a tentative date for this draft as soon as you can.

Thanks for your assistance.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: 

Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Al Morrissey, Esq.
Bob Harrison

Memorandum

Donohue 3


Subject

UNITED STATES v. GRACE PETROLEUM
CORPORATION
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

1/2/86
CV 86-3-GF
CI 85-0429

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement
Section
Land and Natural Resources Div.

From

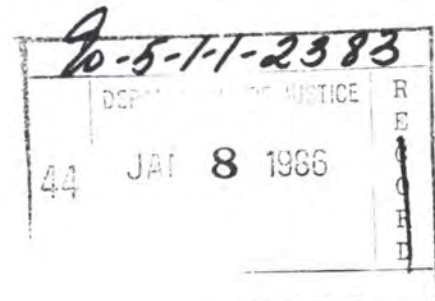
GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of a Summons and Complaint which were issued and filed on today's date. Copies have been mailed to defendant's registered agent, CT Corporation Systems, on today's date.

Enc.

dln

cc: Alfred C. SMith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699



United States District Court

DISTRICT OF Montana

SUMMONS IN A CIVIL ACTION

UNITED STATES OF AMERICA

v.

CASE NUMBER: **CV - 86 - 03 - GF**

GRACE PETROLEUM CORPORATION

TO: (Name and Address of Defendant)

Grace Petroleum Corporation
c/o CT Corporation Systems
406 Fuller Avenue
Helena, MT 59601

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

George F. Darragh, Jr.
Assistant U. S. Attorney
P. O. Box 3446
Great Falls, MT 59403

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Lou Aleksich, Jr.

CLERK

DATE JAN - 2 1986

RENATE WEDDE
BY DEPUTY CLERK



1 F. HENRY HABICHT II
2 Assistant Attorney General
3 Land & Natural Resources Division
4 United States Department of Justice
5 Washington, DC 20530

6 BRIAN G. DONOHUE
7 Attorney, Environmental Enforcement Section
8 Land & Natural Resources Division
9 United States Department of Justice
10 Washington, DC 20530

11 BYRON H. DUNBAR
12 United States Attorney
13 GEORGE F. DARRAGH, JR.
14 Assistant United States Attorney
15 212 Federal Building
16 P.O. Box 3446
17 Great Falls, MT 59403
18 Telephone: (406) 761-7715

19 Attorneys for United States of America

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LOU ALEKSICH, JR. CLERK

Deputy Clerk

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
GRACE PETROLEUM CORPORATION,)
)
Defendant.)

No. CW - 86 - 08 - GF
COMPLAINT

The United States of America, by the authority of the Attorney General, and at the request of and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

1
2 STATEMENT OF THE CASE

3 1. This is a civil action brought pursuant to
4 Section 1423(b) of the Safe Drinking Water Act ("SDWA"), 42
5 U.S.C. § 300h-2(b), to enforce the provisions of Part C of the
6 SDWA and implementing regulations, 40 C.F.R. Parts 144 and 147,
7 seeking an injunction requiring the Defendant, Grace Petroleum
8 Corporation ("Grace"), to operate in accordance with the law,
9 and to assess civil penalties against the Defendant for
10 violations of Part C of the SDWA and of 40 C.F.R. Parts 144 and
11 147.

12 JURISDICTION AND VENUE

13 2. This Court has jurisdiction of the subject matter
14 of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355 and
15 Section 1423(b)(1) of the SDWA, 42 U.S.C. § 300h-2(b)(1).

16 3. Venue resides in this Court pursuant to 28 U.S.C.
17 § 1391(c) and 42 U.S.C. § 300h, et seq.

18 4. The United States is authorized to bring this
19 action pursuant to Section 1423(d)(2) of the SDWA, 42 U.S.C. §
20 300h-2(a)(2).

21 DEFENDANT

22 5. The defendant is incorporated in the State of
23 Delaware and is authorized to do business in the State of
24 Montana, Grace is engaged in the business of the exploration
25 and development of hydrocarbon reserves.

26 6. The defendant at all times relevant to this

1 action owned and operated three salt water disposal wells in
2 Roosevelt County, Montana. These wells, all in the Poplar
3 Field, are known as EPU 110-XD, which is located in the
4 southeast quarter of Section 10, Township 28N, Range 51E;
5 Goings Government #1, which is located in the southwest quarter
6 of Section 11, Township 29N, Range 50E; and Buck Elk #2, which
7 is located in the northwest quarter of Section 7, Township 29N,
8 Range 51E.

9
10 GENERAL ALLEGATIONS

11 7. At all times relevant to this action,
12 administration and enforcement of Part C of the SDWA, 42 U.S.C.
13 §§ 300h to 300h-4 in the State of Montana was, and is, the
14 responsibility of EPA pursuant to 40 C.F.R. § 147.1351(a).

15 8. Pursuant to 40 C.F.R. § 147.1351(a), injection
16 well operators in the State of Montana must comply with the
17 underground injection control ("UIC") program requirements of
18 40 C.F.R. Parts 124, 144, 146 and subpart BB of Part 147.

19 9. Pursuant to 40 C.F.R. § 147.1351(b) the UIC
20 program for the State of Montana became effective on June 25,
21 1984.

22 10. Each of the three Grace Poplar wells is subject
23 to the requirements of Part C of the SDWA and its implementing
24 regulations, 40 C.F.R. Parts 124, 144, 146 and 147.

25 11. Each of the three Grace Poplar wells is an
26 injection well under the definition of 40 C.F.R. § 144.3.

1
2 12. Pursuant to Part C of the SDWA and 40 C.F.R.
3 Parts 124 and 147, EPA has sole authority to issue a UIC permit
4 to the owner or operator of an injection well.

5 13. Unauthorized injection of fluids into an
6 injection well is prohibited by 42 U.S.C § 300h et seq., and 40
7 C.F.R. § 144.11.

8 14. On June 25, 1984, the date the UIC program for
9 the State of Montana became effective, Grace was authorized by
10 rule to operate its injection wells.

11 15. On or about June 25, 1984, EPA pursuant to 40
12 C.F.R. § 144.25(b), notified Grace to apply for UIC permits for
13 its injection wells by July 30, 1984.

14 16. Grace failed to submit a complete UIC permit
15 application to EPA by July 30, 1984, for operation of its
16 injection wells.

17 17. Pursuant to 40 C.F.R. § 144.25(b), injection
18 activities are no longer authorized by rule upon failure by the
19 owner or operator to submit an application in a timely manner
20 as required in the notice to apply for UIC permits.

21 18. As a result of Grace's failure to submit to EPA
22 a UIC application for its injection wells as required, Grace's
23 authorization to operate its injection wells after July 30,
24 1984, terminated by law.

25 19. EPA notified Grace on numerous occasions of the
26 termination by operation of law of Grace's authorization to

1 inject fluids into its injection wells.
2

3 FIRST CLAIM FOR RELIEF: THE EPU 110-XD WELL

4 20. Paragraphs 1 through 19 above are hereby
5 incorporated by reference as if fully alleged herein.

6 21. Despite notice from EPA, Grace continued to
7 operate EPU 110-XD until on or about September 28, 1984, when
8 Grace reported to EPA that it had ceased operating EPU 110-XD
9 as an injection well.

10 22. Grace's injection of fluids into EPU 110-XD on
11 and after July 30, 1984, despite termination of its legal
12 authority to do so violated 40 C.F.R. § 144.11 and subjects
13 Grace to a civil penalty of not more than \$5,000 per day for
14 such injection under Section 1423(b)(2) of the SDWA, 42 U.S.C.
15 § 300h-2(b)(2).

16 SECOND CLAIM FOR RELIEF: THE GOINGS GOVERNMENT #1 WELL

17 23. Paragraphs 1 through 19 above are hereby
18 incorporated by reference as if fully alleged herein.

19 24. Despite notice from EPA, Grace continued to
20 operate Goings Government #1 until on or about September 28,
21 1984, when Grace reported to EPA that it had ceased operating
22 Goings Government #1 as an injection well.

23 25. Grace's injection of fluids into Goings
24 Government #1 on or after July 30, 1984, despite termination of
25 its legal authority to do so violated 40 C.F.R. § 144.11 and
26 subjects Grace to a civil penalty of not more than \$5,000

1 per day for such injection under Section 1423(b)(2) of the
2 SDWA, 42 U.S.C. § 300h-2(b)(2).
3

4 THIRD CLAIM FOR RELIEF: THE BUCK ELK #2 WELL

5 26. Paragraphs 1 through 19 above are hereby
6 incorporated by reference as if fully alleged herein.

7 27. Despite notice from EPA, Grace continued to
8 operate Buck Elk #2 until on or about September 28, 1984, when
9 Grace reported to EPA that it had ceased operating Buck Elk #2
10 as an injection well.

11 28. Grace's injection of fluids into Buck Elk #2 on
12 or after July 30, 1984, despite termination of its legal
13 authority to do so violated 40 C.F.R. § 144.11 and subjects
14 Grace to a civil penalty of not more than \$5,000 per day for
15 such injection under Section 1423(B)(2) of the SDWA, 42 U.S.C.
16 § 300h-2(b)(2).

17 FOURTH CLAIM FOR RELIEF

18 29. Paragraphs 1 through 19 above are hereby
19 incorporated by reference as if fully alleged herein.

20 30. Defendant tested Buck Elk #2 on or about October
21 17, 1984, and determined that it did not have mechanical
22 integrity.

23 31. An injection well which does not have mechanical
24 integrity may, when idle, serve as a conduit for fluid
25 migration which may result in the contamination of underground
26 sources of drinking water.

1
2 32. On or about September 11, 1984, EPA received
3 from Grace a satisfactory plugging and abandonment plan for
4 Buck Elk #2 explaining how Grace would secure the mechanical
5 integrity of Buck Elk #2.

6 33. To date, the plugging and abandonment plan for
7 Buck Elk #2 has not been implemented by the defendant.

8 34. Pursuant to Section 1433(B)(2) of the SDWA, 42
9 U.S.C. § 300h-2(b)(1) and (2), protection of the public health
10 requires that this Court enjoin Grace to implement the
11 September 11, 1984, plugging and abandonment plan for Buck Elk
12 #2.

13 PRAYER FOR RELIEF

14 WHEREFORE, plaintiff United States of America prays
15 for the following relief:

16 1. An order requiring Grace to implement its
17 September 11, 1984, plugging and abandonment plan for Buck Elk
18 #2 and further requiring that EPA officials, and their agents
19 and authorized representatives, be allowed to monitor all
20 phases of the plugging and abandonment of Buck Elk #2;

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2. Assessment of civil penalties against the defendant as follows:

a. Five thousand dollars (\$5,000) for each day Grace is found in violation of Part C of the SDWA and 40 C.F.R. §§ 147.1351(a) and 144.11 for its unlawful operation of EPU 110-XD as alleged in the first claim for relief; and,

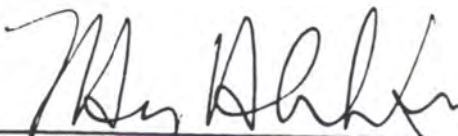
b. Five thousand dollars (\$5,000) for each day Grace is found in violation of Part C of the SDWA and 40 C.F.R. §§ 147.1351(a) and 144.11 for its unlawful operation of Goings Government No. 1 as alleged in its second claim for relief; and,

c. Five thousand dollars (\$5,000) for each day Grace is found in violation of Part C of the SDWA and 40 C.F.R. §§ 147.1351(a) and 144.11 for its unlawful operation of Buck Elk #2 as alleged in the third claim for relief;

3. Award the costs and disbursements of this action to the plaintiff; and

4. Such other relief as may be just and proper.

Respectfully submitted,


F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources
Division
United States Department
of Justice
Washington, D.C. 20530

BYRON H. DUNBAR
United States Attorney
District of Montana

By: George F. Danagh, Jr.
Assistant United States Attorney
Great Falls, Montana

B. G. Donohue
BRIAN G. DONOHUE
Attorneys, Environmental
Enforcement Section
Land and Natural Resources
Division
United States Department
of Justice
Washington, D.C. 20530
(202) 633-5273

Of Counsel:

ALAN J. MORRISSEY
Office of Enforcement and Compliance Monitoring
United States Environmental Protection Agency
Washington, D.C.

ALFRED C. SMITH
Office of Regional Counsel
United States Environmental Protection Agency
Denver, Colorado



DTB:BGD:bab
90-5-1-1-2383

U.S. Department of Justice

FILE

Washington, D.C. 20530

November 14, 1985

FEDERAL EXPRESS

Al Smith, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VIII
999 18th Street, Denver Place
Denver, Colorado 80202

Re: United States v. Grace Petroleum Corp.

Dear Al:

As communicated to you by Bob Harrison on November 13, 1985, the proposed Grace complaint and approval memoranda have been returned to me for revision.

One of the issues we must put to rest is the question of delegation, i.e. whether the Regional Administrator delegated his authority to Region VIII's Director of Water Management, and whether he, in turn, delegated that authority to the Director of EPA's Montana office. Bob indicated that you would supply us with that documentation. I appreciate whatever priority you can give to this task.

Another question has been raised regarding the effect of 40 C.F.R. § 147.135, Acquifer Exemptions. This provision, in toto, states:

Those portions of aquifers within one-quarter mile of existing Class II wells are exempted for purpose of Class II injection activities only.

The question, simply put, is what effect this exemption has on our case. I will be in touch with you about this as soon as possible.

Thank you for your assistance.

Sincerely,

Assistant Attorney General
~~Land and~~ Natural Resources Division

By: 

Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Al Morrissey, Esq.



FILE

DTB:RVH:mr
90-5-1-1-2383

Washington, D.C. 20530

PRIVILEGED

ATTORNEY CLIENT
COMMUNICATION WORK PRODUCT

June 28, 1985

Alfred C. Smith, Esquire
Assistant Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, Colorado 80295

Re: The Grace Petroleum Company Matter, (D. Montana)

Dear Al:

This is to confirm the substance of our June 25, 1985, telephone conversation concerning the referral of the Grace Petroleum Company Matter.

We look forward to receiving and reviewing photocopies of a number of documents which we discussed in the phone call. These include:

1. Information noted in my June 12, 1985 letter;
2. The initial Grace U.I.C. permit applications;
3. Grace's reply to the June 25, 1984 EPA Region VIII letter, including the information supplied by Grace concerning the so-called "Huber wells";
4. The Montana State U.I.C. Program Description;
5. The "plain english" U.I.C. information sheet which was distributed via mass mailing to the Montana petroleum industry;
6. The proof of service or "CC list" for the above;
7. The receipt signed by Grace indicating its receipt of the June 25, 1984, EPA Region VIII letter; and

8. Copies of all delegations of authority from the Regional Administrator or other EPA officials to the head of the EPA's Montana Operations Office.

I believe Pat Crotty's suggestion that we meet in Washington next week to thoroughly review the Underground Injection Control Program is a good one. As I indicated, because of travel conflicts I am able to meet with you on only Monday or Wednesday of next week (July 1 or 3, 1985).

Further, I want to underscore our belief that retention of experts is crucial to effective case development. Identification and preliminary screening of experts must begin now, in order to fully anticipate the information needs which will arise during the course of litigation. I look forward to reviewing with you a list of proposed experts to support the case.

Laura Clemmens indicated that permit application extensions were granted to a number of U.I.C. permittees last summer. Prior to proceeding further, I would like to review with you the legal authority as well as the factual basis for these extensions.

We look forward to working with you, Laura and Pat in developing this referral.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: *Bob Van Heuvelen*

Robert Van Heuvelen
Senior Trial Attorney
Land and Natural Resources Division

cc: Patrick Crotty
Laura Clemmens
Brian Donohue
Robert Harrison
Alan Morrissey



FILE

DTB:BGD:scm

Washington, D.C. 20530

June 12, 1985

Al Smith
Office of Regional Counsel
U.S. Environmental Protection Agency
1 Denver Place
Denver, Colorado 80202

Laura Clemens
Drinking Water Branch
Water Management Division
U.S. Environmental Protection Agency
1 Denver Place
Denver, Colorado

Alan Morrissey
U.S. Environmental Protection Agency
OECM (LE-134W)
401 M Street, S.W.
Washington, D.C. 20460

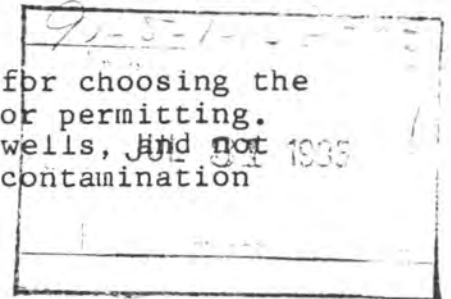
Re: Grace Petroleum Corporation

Dear Al, Laura, and Al:

Please be advised that we have reviewed the Litigation Report forwarded to us from EPA Headquarters. Further, we sent a copy of the report to the U.S. Attorney's Office in Montana in preparation for filing the action. However, before a complaint can be prepared we have identified a number of areas in which we need further information, development and documentation. These are, as follows:

1. We need more factual development of the drinking water contamination problems confronted at the Ft. Peck Indian Reservation, i.e. the location of wells; owners of the wells; the precise nature of the problem (including sampling data); duration of the problem, (i.e. beginning dates; whether the contamination problem is continuing); and any other documentation regarding the problem in addition to that contained in the Litigation Report.

2. We need to know EPA's rationale for choosing the eighteen wells noted in the Litigation Report for permitting. The Litigation Report suggests that the Murphy wells, and not the Grace Wells, were the prime suspect in the contamination at the Reservation.



3. We need to determine what happened to each of the other owner/operators which were also selected for permitting. Presumably, there are documents which may provide this information. If so, please forward copies to us as soon as possible.

4. We will need assistance from a number of experts outside EPA in order to develop and, ultimately, litigate this case. For example, we need to find: a hydrogeologist familiar with the area and its aquifers; an underground injection expert, preferably an individual familiar with or from the oil production industry; an analytical chemist who could assist us in fingerprinting the contaminant plume emanating from Grace and ascertaining the connection to the Ft. Peck Reservation; and, a toxicologist who could testify regarding the health effect of the impurities in the water at the Reservation. In this regard, EPA should conduct or arrange for the sampling and analysis of the waste water being injected by Grace and the water being consumed at the Ft. Peck Reservation. Please advise as to the availability of EPA funds to pay for these witnesses and analyses.

5. The letter requiring Grace to file the application for the permits was signed by John Wardell, Director of the EPA Montana Operations Office. We need proof of the delegation from the Regional Administrator authorizing Mr. Wardell to sign the letter. In that regard, the Litigation Report indicates that extensions were given to some of the other owner/operators required to file an application. We need to determine under whose authority these extensions were given.

6. We need documentation that Grace was, in fact, the owner/operator of the three wells.

7. We need to determine the basis for the conclusion, aside from Grace's assertion, that these wells were "shut-in" in late September.

8. We need to determine why the initial Grace applications for permits were unsatisfactory.


We suggest that a conference call be held on Monday, June 17, 1985, to discuss these matters. If you are unavailable, please contact me.

Finally, we understand that EPA is developing a draft complaint in this case. Please forward it to us as soon as possible.

Thank you for your attention to these matters.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

A handwritten signature in dark ink, appearing to read "R. Van Heuvelen". The signature is written in a cursive style with a large initial "R" and a stylized "V".

By: Robert Van Heuvelen
Trial Attorney
Environmental Enforcement Section



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
1860 LINCOLN STREET
DENVER, COLORADO 80295

FILE

MAR 28 1985

Ref: 8RC

David Buente, Chief
Environmental Enforcement Section
Land & Natural Resources Division
U.S. Department of Justice
10th & Pennsylvania
Washington, DC 20026

SDWA (U.I.C.)

FILED

U.S. V.

Re: Proposed Civil Action v. Grace
Petroleum Corporation Under 42 U.S.C.
§300h-2(b)(1)

Dear Dave:

We are enclosing, for your information, a copy of the subject referral to the Office of Enforcement and Compliance Monitoring (OECM) for violations of EPA's Underground Injection Control (UIC) regulations, promulgated pursuant to §1421 of the Safe Drinking Water Act (SDWA), 42 U.S.C. §300h.

Since this is the first UIC referral, it raises issues of first impression regarding EPA's interpretation of its 40 C.F.R. Part 144 UIC regulations. Another issue raised in this referral concerns the nature of a "willful" violation in the context of §1423(b)(2) of the SDWA, 42 U.S.C. §1423(b)(2) (i.e., whether it is necessary to proceed criminally in order to plead the higher \$10,000/day "fine"). Our analysis indicates that a criminal action would be necessary to collect the higher \$10,000 amount. After a thorough evaluation, we have decided to refer this case civilly. Understanding that Headquarters may take a different position, we have concurrently submitted a copy of the referral package to the Office of Criminal Enforcement for review.

Please feel free to contact Al Smith, Associate Regional Counsel, at FTS:564-1470, if you have any questions or suggestions concerning this case.

Sincerely yours,

Al Smith

for

Thomas A. Speicher
Regional Counsel

Enclosure

cc: Glenn Unterberger, OECM
Randall Lutz

NEW

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
1860 LINCOLN STREET
DENVER, COLORADO 80295

MAR 28 1985

Ref: 8RC

MEMORANDUM

SUBJECT: Proposed Civil Action v. Grace Petroleum Corporation for
Violations of EPA's 40 C.F.R. Part 144, Underground Injection
Control (UIC) Regulations

FROM: *for* Thomas A. Speicher *Al Smith*
Regional Counsel

TO: Randall Lutz, Director
Office of Criminal Enforcement

We are enclosing for your information and review a copy of the subject referral to the Office of Enforcement and Compliance Monitoring (OECM) for violations of EPA's Underground Injection Control (UIC) regulations, promulgated pursuant to §1421 of the Safe Drinking Water Act (SDWA), 42 U.S.C. §300h.

Section 1423(b)(2) of the SDWA, 42 U.S.C. §300h-2(b)(2) provides for a civil penalty of \$5,000 per day of violation, or in lieu of the civil penalty, a fine of not more than \$10,000 per day for willful violations. As we have indicated in the litigation report, there is some evidence that the violations were willful. However, after consulting with our Denver criminal investigation staff and evaluating the statutory remedies (or lack thereof - no penal provisions), we decided on a civil referral.

Nevertheless, we want to give your office an opportunity for a de novo review of this case. Should there be a decision to pursue this action criminally additional resources, beyond those the region has committed for a civil referral, will be needed for further case development.

We are requesting your expedited review of this proposed referral. If you should have any questions or require further information, please feel free to contact Al Smith, Associate Regional Counsel, at FTS: 564-1470.

Enclosure

cc: David Buente, DOJ
Glenn Unterberger, HQ's



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
1860 LINCOLN STREET
DENVER, COLORADO 80295

MAR 25 1985

Ref: 8RC

MEMORANDUM

TO: Courtney M. Price
Assistant Administrator for Enforcement
and Compliance Monitoring (LE-133)

SUBJECT: Proposed Civil Action v. Grace Petroleum Corporation for
Violation of EPA's 40 C.F.R. Part 144, Underground Injection
Control (UIC) Regulations


We are referring the above referenced matter to you for a civil action against the Grace Petroleum Corporation under Section 1423(b)(1) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §300h-2(b)(1), for violation of EPA's 40 C.F.R. Part 144 U.I.C. regulations promulgated pursuant to Section 1421 of the SDWA, 42 U.S.C. §300h. In support of this action, we are enclosing a case summary and the original of a Litigation Report with copies of pertinent exhibits. To the best of our knowledge, this is the first civil referral for a violation of EPA's U.I.C. regulations. For this reason alone it has a national significance and, in recognition of this, we are recommending that OECM and the region jointly manage this case.

The proposed defendant, Grace Petroleum Corporation, a subsidiary of W.R. Grace & Co., is the owner/operator of three salt water disposal wells in the Poplar Field, Roosevelt County, Montana. During a 59 day period, from July 31, 1984 through September 28, 1984, the defendant, without authorization, disposed of salt water into these three wells, in violation of EPA's U.I.C. regulations, as set forth in 40 C.F.R. Part 144. For these violations, we are requesting the maximum civil penalty of \$5,000 per day.

Because of an apparent "willfulness" of the violations, we are concurrently submitting a copy of the referral package to the Office of Criminal Enforcement for review. This should not be interpreted as any ambivalence on the Region's part. After thoroughly considering the facts in this case, in the context of the statutory provisions regarding a penalty/fine set forth in Section 1423(b)(2) of the SDWA, 42 U.S.C. 300h-2(b)(2), we strongly feel that this case should proceed civilly. The basis of our position is set forth in the enclosed Case Summary and Litigation Report. Hopefully, the Office of Criminal Enforcement will expedite its review of this case.

- 2 -

Please direct any questions you may have to Alfred C. Smith, the lead regional attorney on this case. The lead regional technical contact is Laura Clemmens of our Drinking Water Branch. Mr. Smith's telephone number is FTS: 564-1470, and Ms. Clemmens can be reached at FTS: 564-1419.


John G. Welles
Regional Administrator

Enclosures

cc: Office of Criminal Enforcement, W 1039 C
Paul Baltay, E 1009 B
F. Henry Habicht, DOJ
Attn: David Buente

CIVIL LITIGATION REPORT

GRACE PETROLEUM CORPORATION
6501 North Broadway
Oklahoma City, Oklahoma 73116

Prepared by: Alfred C. Smith/Derrick Hobson,
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
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and

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GLOSSARY

A number of terms are used frequently throughout the text of this report. In the context of this litigation report, these terms are defined as follows:

- BRINE - Water that has a large quantity of salts, especially sodium chloride.
- CASING - A pipe or tubing of appropriate material of varying diameter and weight lowered into a bore-hole during or after drilling in order to support the sides of the bore-hole and to prevent the walls from caving in, to prevent the loss of drilling mud into porous ground, and to prevent water, gas, or other fluids from entering or leaving the hole.
- FIELD - An area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same individual geological structural feature and/or stratigraphic condition. The field name refers to the surface area, although at times, it may refer to both the surface and underground productive formations.
- MECHANICAL INTEGRITY TEST (MIT) - A pressure test performed on a well to determine whether: 1) there are significant leaks in the casing, tubing or packer, and 2) there is significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.
- PLUGGING AND ABANDONMENT PLAN - A plan submitted on EPA form 7520-14 by all UIC permit applicants. The plan exactly states how the applicant will plug and abandon the injection well after operations have ceased.
- SHUT-IN - To close the valves on a well so that it stops producing or injecting. A shut-in differs from plugging a well in that it is a temporary condition.
- SALT WATER DISPOSAL WELL - A well used for the disposal of salt wastewater produced in conjunction with crude oil production. The salt water is injected into a suitable formation through tubing set with a packer directly above the injection zone.

TUBING - A string of steel pipe run inside the casing, through which fluids are injected. Tubing provides an extra level of protection between the injection fluid and the formation.

PACKER - An expandable plug-like device for sealing off the annular space between the tubing and the casing of a well.

UNDERGROUND INJECTION OPERATIONS - Operations involving the injection of fluids underground for the purpose of: 1) enhanced oil recovery, and/or 2) disposal of salt water produced with crude oil into a suitable formation.

LIST OF EXHIBITS

- Exhibit 1. Region VIII Prioritizing System for SWD Permitting and Mechanical Integrity Testing Notification and memorandum from Bill Engle to Richard Long discussing permitting priorities.
- Exhibit 2. June 25, 1984, letter from John Wardell, Director of the EPA Montana Operations Office (MOO), to James Johnson requesting permit applications.
- Exhibit 3. August 6, 1984, memorandum from Max Dodson to the file documenting telephone calls to the Ajax and Grace Petroleum Companies, informing them of the termination of EPA's authorization of their injection well activities.
- Exhibit 4. September 28, 1984, letter from James Johnson of Grace Petroleum to Max Dodson announcing the shut-in status of the three wells.
- Exhibit 5. Phone memorandums of October 17 and 25, 1984, documenting phone calls from James Johnson to Laura Clemmens during which EPA was advised that the wells lacked mechanical integrity.
- Exhibit 6. August 1, 1984, letter from John Wells, Regional Administrator to James Johnson stating Grace's loss of authority to inject.
- Exhibit 7. August 20, 1984, telephone memorandum from Mike Strieby to Laura Clemmens documenting telephone call from Bob Coffia of Grace Petroleum.
- Exhibit 8. August 21, 1984, telephone memorandum from Derrick Hobson to Laura Clemmens documenting telephone call from Bob Coffia.
- Exhibit 9. September 14, 1984, letter from James Johnson to Laura Clemmens requesting emergency UIC permits.
- Exhibit 10. September 26, 1984, letter from Max Dodson to James Johnson, denying emergency permits.
- Exhibit 11. September 28, 1984, letter from James Johnson to Max Dodson announcing shut-in status of the three wells.

- Exhibit 12. Letters relating to chloride contamination on the Fort Peck Indian Reservation.
- Exhibit 13. Minutes of January 30, 1985, meeting between Dan Anderson, Laura Clemmens and Debra Ehlert, in which market rates for hauling waste brine were discussed.
- Exhibit 14. Permit application for the Goings Government # 1 salt water disposal well dated August 6, 1984, and September 11, 1984.
- Exhibit 15. Permit application for the LPU 110-XD salt water disposal well dated August 6, 1984, and September 11, 1984.
- Exhibit 16. Permit applications for the Buck Elk # 2 salt water disposal well dated August 6, 1984, and September 11, 1984.
- Exhibit 17. Underground Injection Control Program Compliance Strategy for Direct Implementation Jurisdictions (dated February 14, 1985).
- Identification of other exhibits, while not referenced in the text, but nonetheless, considered as pertinent to the resolution of this matter, is provided below.
- Exhibit 18. Various diagrams and maps including the following: 1) maps illustrating the approximate total dissolved solids levels for the Judith River Formation in the Poplar Field; 2) downhole schematics of each well showing local stratigraphy; and 3) maps showing topography within a one-mile radius of each well bore.
- Exhibit 19. A cross-section of a standard injection well.

1. INFORMATION IDENTIFYING THE DEFENDANT

A. Defendant

The Defendant in this action is the Grace Petroleum Corporation, which is a subsidiary of W.R. Grace and Company. It is incorporated in the State of Delaware and duly authorized to do business in the State of Montana. Its corporate offices are located at:

6501 North Broadway
Oklahoma City, Oklahoma 73116
1-800-654-9175

Montana Offices located at:

1643 Lewis Avenue STE 3
Billings, Montana 59102
1-406-245-8440

B. Type of Business

As stated above, Grace Petroleum Corporation is a subsidiary of W.R. Grace & Co. It is incorporated in the state of Delaware and duly authorized to do business in the State of Montana. Grace Petroleum is engaged in the business of exploration and development of hydrocarbon reserves and is the sixth largest among independent oil producers.

C. Defendant's Counsel

Felecity Hannay, Esquire
Davis, Graham & Stubbs
2600 Colorado National Building
Post Office Box 185
Denver, Colorado 80201

Ms. Hannay is the outside attorney for the Lakewood, Colorado Office of Grace Petroleum. However, the company's headquarters office is located in Oklahoma City, Oklahoma and may retain different counsel for this enforcement action.

II. SYNOPSIS OF CASE

On June 25, 1984, the Underground Injection Control (UIC) Program direct implementation regulations applicable in the State of Montana became effective. These regulations were promulgated under the authority of Part C of the Safe Drinking Water Act (the Act) with the principal objective of preventing underground injection operations which may endanger underground sources of drinking water. Pursuant to the authority granted the Regional Administrator by these regulations, a schedule was established (Exhibit 1) that required certain underground injection salt water disposal well operations to apply for a permit to continue their operations.* Grace Petroleum either owned and/or operated at least three such salt water disposal wells and was among the first group of such operators required by the Region to apply for a permit.**

Grace Petroleum failed to apply for a permit within the thirty five day period prescribed in the June 25, 1984, letter (Exhibit 2) from the Regional Administrator***requiring application for permits for its three affected salt water injection well operations. Having failed to apply in a timely manner, Grace Petroleum's authorization to continue its injection well operations at the three affected well sites expired on July 31, 1984. (See 40 C.F.R. §§ 144.11; 144.25(a)(4), (b); and 144.31(c)(1).) Accordingly, continued operation of these three injection well sites was unlawful. (40 C.F.R. §144.28(a).)

Nonetheless, after being advised on August 3, 1984, that its authorization to continue injection operations at the three affected well sites had expired and that the operations should be suspended, (Exhibit 3) the company continued its operations through September 28, 1984, at which time the affected wells were reportedly shut-in. (Exhibit 4).

*/ The schedule was established in response to complaints from the Bureau of Indian Affairs that the drinking water in many of the wells on the Fort Peck Reservation suffered from chloride contamination. Such contamination is often the result of improperly maintained underground injection well activity.

**/ The three affected wells located in the Poplar Field, in Roosevelt County, Montana are: the EPU 110-XD; Goings Government # 1; and the Bulk Elk #2.

***/ While the letter was signed by John Wardell, Director of the EPA Montana Operations Office (MOO), Mr. Wardell was duly authorized to issue such communications.

Subsequent to the shut-in, Grace conducted tests for mechanical integrity on each of the affected wells. The test results indicated that the wells did not have the minimal mechanical integrity as required by the UIC regulations (Exhibit 5).

This enforcement action is proposed as an appropriate response to the Defendant's apparent lack of regard for the public health and safety and its disregard for the requirements of the Underground Injection Control Regulations to which it is subject.

III. STATUTORY AUTHORITY

A. Substantive Legal Requirements

Section 1421 of the Safe Drinking Water Act, SDWA (hereinafter "the Act") 42 U.S.C. Section 300h, requires the Administrator to promulgate regulations establishing minimum requirements for effective Underground Injection Control programs.

Section 1422 of the Act, 42 U.S.C. Section 300h-1(e), requires the Administrator to ". . . list in the Federal Register each State for which in his judgment a State underground injection program may be necessary to assure that [the] underground injection [of fluids] will not endanger drinking water sources." Additionally, the Administrator was required to establish by regulation a program for EPA administration of UIC programs in the absence of an approved State program in a State listed pursuant to the Section 1422 mandate. Under Section 1423(a)(2) and (b)(2) of the Act, 42 U.S.C. Section 300h-2(a)(2) and (b)(2).

42 U.S.C. §300h-2(a)(2) states--"Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violation of such requirement, he may commence a civil action under (b)(1) of this section."

42 U.S.C. §300h-2(b)(2) states--" Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibilities for underground water sources (A) shall be subject to a civil penalty of not more than \$5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than \$10,000 for each day of such violation."

Montana is included in the list of States determined by the Administrator pursuant to Section 1422(a) of the Act, to require a UIC program. On May 11, 1984, the Administrator promulgated regulations for the implementation of a Direct Federally Administered UIC Program applicable to Montana. (See 40 C.F.R. Parts 144, 145, 146, and 147.) These regulations became effective on June 25, 1984.

Under these regulations, the underground injection of fluids, unless authorized "by rule" or by permit issued pursuant to the provisions of the UIC regulations, is prohibited (see 40 C.F.R. Section 1411). Underground injection operations which began before a UIC program for the State in which the injection occurs was approved are classified as "existing injection well" operations. These wells are thereby authorized "by rule" to continue in operation. (See 40 C.F.R. Sections 144.3 and 144.21.) However, the Director of the UIC program is authorized to require injection well operations authorized by rule to apply for a permit, in accordance with the conditions listed in the regulations, through written notice (see 40 C.F.R. Section 144.25). Such . . . "activities are no longer authorized by rule upon the effective date of a permit or a permit denial, or upon failure by the owner or operator to submit an application in a timely manner as specified in the notice." 40 C.F.R. Section 144.25(b) emphasis added.

Additionally, under 40 C.F.R. Section 144.31(a) [p]ersons currently authorized by rule must still apply for a permit . . . unless authorization was for the life of the well or project.* Such persons shall submit an application to the Regional Administrator "as expeditiously as practicable and . . . on a schedule established by the Regional Administrator . . . "** (40 C.F.R. Section 144.31(c)(1).)

Any noncompliance with the requirements of the UIC program provision constitutes a violation of the Safe Drinking Water Act and is grounds for an enforcement action. Such an enforcement action may be for injunctive relief, as well as penalties and fines of up to ten thousand dollars per day of violation. (See Section 1423 of the Act, 40 C.F.R. § 144.28(a).)

*/ The Defendant's authorization to conduct injection operations in the wells which are subject to this suit are salt water disposal operations and not the "enhanced recovery" types which are authorized "for the life of the well or project." (See 40 CFR §§ 144.21, 144.22, 144.25(a).)

**/ Failure to submit such permit applications in accordance with the Regional Administrator's schedule results in the termination of such authorization by rule through operation of law. (See 40 C.F.R. §144.25(a)(4) and (b).)

B. Prior Legal Interpretations

The EPA-administered UIC Program is a new regulatory program in which the Agency has no prior enforcement experience. Accordingly, there are no reported decisions or rulings by the United States District Courts applying or otherwise interpreting Section 1423(b)(2) of the Act, 42 U.S.C. Section 300h-2(b) nor other underground injection control provisions of the Act.

IV. FACTUAL BASIS OF ALLEGED VIOLATION(S)

A. Description of Defendant's Injection Well Operations

Grace Petroleum Corporation is the operator of at least three salt water disposal wells in the Poplar Field, Roosevelt County, Montana: The EPU 110-XD; the Goings Government # 1; and the Buck Elk #2. The specific well operations are described below:

1. The EPU 110-XD is located in the SE quarter of Section 10, Township 28N, Range 51E. Grace has been injecting produced water (brine) from the Nisku and Charles Formation through the EPU 110-XD into the Mission Canyon Formation at a depth of approximately 6,300 feet. The well has been injecting a maximum volume of 3,000 barrels of water per day (BWPD) at a maximum pressure of 900 pounds per square inch (psi), since October 1973.
2. The Goings Government # 1 is located in the SW quarter of Section 11, Township 29N, Range 50E. Grace has been injecting produced water (brine) from the Charles Formation into the Dakota Formation through the Goings Government # 1 at a depth of approximately 3,700'. The well has been injecting a maximum of 3,000 BWPD at the maximum pressure of 875 psi since May 1979.
3. The Buck Elk #2 is located in the NW quarter of Section 7, Township 29N, Range 51E. The Buck Elk #2 has been injecting produced water (brine) from the Charles Formation into the Judith River Formation through the Buck Elk #2 at a depth of approximately 1,150'. The Buck Elk #2 is used as a standby well and has been injecting a maximum of 1,500 BWPD sporadically at a maximum pressure of 400 psi since December 1967.

B. Description of Violations

The Defendant, Grace Petroleum is the owner and/or operator of at least three existing Class II salt water disposal injection well operations regulated under the UIC regulations. On June 25, 1984, the Regional Administrator, because of complaints by the Bureau of Indian

Affairs of high chloride concentrations in nearby drinking water sources, required Defendant, along with five other injection well operators, with a total of eighteen injection wells in the Poplar, Montana area, to apply for UIC permits for their respective salt water underground injection operations. Each owner/operator was given until July 30, 1984, a period of thirty-five days, to submit their applications. The Defendant did not submit its applications within the time period provided by the Regional Administrator. Having failed to meet the prescribed filing date without a grant or extension, the Defendant's authorization by rule to continue conducting its injection operations at the three subject well sites expired at midnight, July 31, 1984. Since the underground injection of fluids is prohibited, except as authorized by rule or permit, and since the Defendant, effective midnight of July 31, 1984, had no such authorization, any continued injection well operations at these sites was in violation of the Safe Drinking Water Act and unlawful. Notwithstanding, the Defendant continued its injection well operations for an additional 59 days, until September 28, 1984. At this time, the Defendant shut-in the three injection well operations that are the subject of this proposed enforcement action.

C. Prior EPA Attempts to Obtain Compliance

1. A letter requesting that permit applications be submitted for the three subject wells was sent via certified mail to James Johnson, on June 25, 1984. (Exhibit 2.)
2. Upon determining that Grace failed to apply for the permits within the period prescribed in our letter of June 25, 1984, EPA notified Mr. Johnson by telephone on August 3, 1984, that Grace's authorization to inject through the subject wells had terminated. A letter notifying Grace that their authorization to inject had terminated and that any injection after July 31, 1984, was a violation of the Act and subjected Grace to the penalties described therein, was sent to Johnson on August 16, 1984, via certified mail. (Exhibit 6.)
3. Robert Coffia, Grace Petroleum's Manager of Security and Regulatory Affairs called the Drinking Water Branch on August 20, 1984, regarding EPA's letter of August 16, 1984. (Exhibit 7) On August 21, 1984, Mr. Coffia was contacted via telephone by Derrick Hobson, the regional attorney assigned to UIC matters, and was advised of the requirements of the UIC regulations and his company's obligations thereunder. Mr. Coffia expressed concern for settling the problem, as soon as possible and suggested

that the company pay a token fine of a few hundred dollars to clear things up. Mr. Coffia was advised that the time for settlement discussions was after his company had regained its authorization or had otherwise come back into compliance with the UIC program requirements. In an attempt by the Region to assist the company in regaining its "in compliance" status, Mr. Coffia was also given advice on applying for an emergency permit. (Exhibit 8.)

4. After Grace applied for an emergency permit under 40 C.F.R. Section 144.34(a)(2) on September 14, 1984, (Exhibit 9) EPA notified Grace via certified mail, on September 26, 1984, that an emergency permit could not be granted because Grace was unable to qualify under Section 144.34(a). (Exhibit 10.)

5. After receiving EPA's letter of September 26, 1984, Grace Petroleum reportedly shut-in the subject three wells on September 28, 1984, bringing them into compliance with the requirements of the UIC regulations and the Safe Drinking Water Act. (Exhibit 11.)

D. Approximate Cost of Compliance

The approximate cost of compliance was negligible. Initially, the cost of compliance equated to the manpower resources necessary to file a complete UIC permit application.

E. Economic Advantage Derived From Noncompliance

This issue is addressed in Part IX of this report.

V. REQUIRED EVIDENCE

A. Elements of Proof

The elements necessary to present a prima facie case under the facts as alleged herein, of conducting underground injection operations in violation of the authorization provisions of the UIC program are:

1. that a person;
2. conducted underground injection operations; and
3. without authorization as required by the UIC program; and

4. that such unauthorized injection activity was willful, if a fine of \$10,000 for each day of violation is prayed for.*

With respect to the subject defendant:

(1) Grace Petroleum is a person under Section 1401(12) of the Act, 42 U.S.C. Section 300f(12), as it is a corporation. It is also an operator or owner under the provisions of 40 C.F.R. Section 144.3;

(2) Grace Petroleum, during the period encompassing June 1, 1984, through October 30, 1984, was the owner/operator of the EPU 110-XD; Goings Government # 1; and Buck Elk # 2 injection wells in Poplar Field, Roosevelt County, Montana. These wells were engaged in the underground injection of produced brine waters and were "existing wells" regulated under the provisions of the UIC program as found in 40 C.F.R. Parts 144, 145, 146, and 147.

(3) Under the UIC program, any underground injection of fluids, except as authorized by rule or permit issued under this program, is prohibited. The EPU 110XD, Goings Government # 1 and Buck Elk # 2 were existing wells under the UIC program and were authorized by rule to continue their respective injection operation after the effective date of the UIC program. However, the injection operations at these three wells continued without the required authorization between July 31 and September 28, 1984.

(4) Willfulness is discussed in Part V. B. of this Report. Essentially, a willful violation of the Act can be demonstrated with a showing of indifference respecting the requirements of the Act and its implementing regulations. In the present case, it is proposed that "willfulness" can be used as a measure of aggravation in determining an appropriate civil penalty. Responsible representatives of Grace Petroleum were repeatedly advised of the company's responsibilities under the Act and UIC regulations. This information was conveyed through numerous telephone conversations and the mail. (See Part IV. C. of this report.) These communications notwithstanding, the proscribed unauthorized injection activity continued for 59 days.

*/ Evidence of willfulness is not required to establish civil liability under the Safe Drinking Water Act. However, willful violations of UIC program provision(s) may result in additional fines and possible criminal prosecution. This element of evidence is discussed only to provide a more expansive outlook on the potential and probable implications of this case.

The evidence now held to prove these allegations is principally documentary. On the issue of the appropriate characterization of Grace Petroleum, we have documents to the effect that an owner/operator relationship existed between it and the respective three wells. As to the characterization of the three wells as underground injection wells, we have documents submitted by Grace Petroleum admitting such, and certain information obtained as a result of a survey taken of the records at the Bureau of Land Management which also regulates certain well operations. As to the requirements of the UIC regulations and the compliance or noncompliance therewith by Grace Petroleum, we have statements, admissions by responsible Grace Petroleum personnel respecting the loss of the affected wells' authorization to inject due to the failure of Grace Petroleum to submit applications for UIC permits in accordance with the provisions of the UIC regulations.

B. "Willful" Under the Safe Drinking Water Act

The Administrator, having determined that Grace Petroleum is a person subject to the requirements of an underground injection control program as provided in Section 1422(c) and (d) of the Act, 42 U.S.C. §200h-1(c) and (d), and that Grace Petroleum has failed to comply with requirements of this program, is authorized under the provisions of Section 1423(a) and (b) to commence a civil action in the appropriate United States District Court to require compliance with any requirement of an applicable underground injection control program; to seek such judgments as the protection of public health may require and the imposition of a civil penalty not to exceed five thousand dollars (\$5,000) for each day such person violates the requirements of the respective underground injection control program regulations.

Additionally, for willful violations, the violators may, in lieu of the civil penalty be fined not more than ten thousand dollars (\$10,000) for each day of violation. It is herein alleged that the company's pattern of unresponsiveness, as manifested through the respective acts or failures to act by Mr. James Johnson and Mr. Robert Coffia, to UIC requirements and indifference to the protection of public health were "willful" within the meaning of Section 1423(b)(2) of the Act, 42 U.S.C. 300h-2(b)(2).

The Supreme Court has interpreted the meaning of willful under various other criminal and civil statutes. In United States v. Murdock, 290 U.S. 389 (1933), the defendant was prosecuted under the Revenue Acts of 1926 and 1928, which made it a misdemeanor for a person "willfully" to fail to pay the required tax. The Murdock Court stated that conduct was "willful" within the meaning of the criminal statute if it was "marked by careless disregard [for] whether or not one has the right so to act." Id., at 395. In United States v. Illinois Central R., 303 U.S. 239 (1938), the Court applied the Murdock definition of

"willful" in a civil case. There, the defendant's failure to unload a cattle car was "willful," because it showed a disregard for the governing statute and an indifference to its requirements. *Id.*, at 242-43. (The definition of "willful" set forth in *Murdock and Illinois Central* has been applied by courts interpreting numerous other criminal and civil statutes. See e.g., *Alabama Power Co. v. Federal Energy Regulatory Commission*, 584 F.2d 750 (5th Cir. 1978); *F.X. Messina Construction Corporation v. Occupational Safety & Health Review Commission*, 505 F.2d 701 (1st Cir. 1974). The use of willful implies a volitional act which is capable of manifestation through indifference and dilatory action.

Grace Petroleum's continued refusal to discontinue its injection operations despite its knowledge of the lack of required authorization to conduct such activities clearly demonstrate that the violations were done knowingly; in disregard for the governing statute and out of indifference to its requirements. Accordingly, the continued injection operation activities should be construed as willful violations of the UIC regulations and the Act.*

C. Evidence of Environmental Harm

There is no clear evidence of direct environmental harm caused by Grace Petroleum's injection well operations to date; however, we believe that there is evidence to support a potential for environmental harm. On June 30, 1983, Dave Allison of the Bureau of Indian Affairs (BIA) wrote to Joe Gilig of the Bureau of Land Management (BLM) expressing a need for an inspection of Salt water disposal (SWD) wells on the Fort Peck Indian Reservation. (Exhibit 12.) Allison believed an inspection was necessary because of reports he had received from the Reservation of chloride contamination of drinking water wells. As a result, a joint inspection of the disposal wells on the reservation was arranged. Bill Engle of the Montana Office of EPA and two representatives from the BLM conducted the inspection.

*/ While it is the position of the Region that willfulness has been demonstrated by the defendant, this matter is nonetheless forwarded for consideration as a civil referral. We have conferred with the criminal investigation unit staff on this matter several times. It was their opinion that considering the absence of jail time and the small advantage (penalty-wise) to be gained by criminal prosecution, vis-a-vis, their available resources, that this was not a case they wanted to commit resources to prove the willfulness of the violative conduct, however, this factor is utilized in the penalty calculation, in support of assessment of the maximum civil penalty.

On September 7, 1983, Bill Engle submitted a report on the inspection trip to the BLM, the BIA, and the Fort Peck Tribal Counsel. He stated in the cover letter that it was his opinion that no single disposal well was responsible for the contamination. Engle also stated Murphy Oil company's disposal wells were questionable enough to merit additional testing. As a result of Engle's determination, the EPA established the fields in which the Murphy disposal wells existed as a salt water disposal well permitting priority.

Based upon this information, EPA made the decision as to which existing SWD wells to permit first. This schedule of prioritizing existing wells hinged on the calculated degree of threat of environmental harm presented by the respective injection wells in the area. (Refer to Exhibit 1).

D. Evidence Favorable to Defendant

There are no credible factual defenses anticipated. However, the defendant could attempt to emphasize certain mitigating or equitable factors. The government's lack of persuasive evidence that the violations have contributed to or caused actual human illness is one such factor. Another is that the defendant could assert that the violations are technical in nature, attributable to no discernable environmental impact.

The defendant could also allege that the penalty calculation should be limited to one finding of violation per day, irrespective of the number of injection sites operating without authorization. The Clean Water Act bears language similar to that of the Safe Drinking Water Act in regard to calculating or apportioning the civil penalty to be recovered by the government when liability is found. The Clean Water Act provides that one who violates the provisions of the Act "shall be subject to a civil penalty not to exceed \$10,000 per day of such violation." Section 309(d) of the Act, 33 U.S.C. Section 1319(d). The Safe Drinking Water Act provides that one who violates the provisions of the Act "shall be subject to a civil penalty of not more than \$5,000 for each day of such violation, or ... be fined not more than \$10,000 for each day of such violation." Section 1423(b)(2) of the Act, 33 U.S.C. Section 300h-2(b)(2).

The Clean Water Act (CWA) language has been construed to the effect "that Congress intended a maximum of \$10,000 civil penalty per day regardless of the number of violations occurring on that day." (United States v. Detrex Chemical Industries, Inc., 393 F.Supp. 735, 737 (N.D. Ohio 1975).) The opinion is drawn from a comparative analysis of the Congressional language used in other sections of the Clean Water Act, e.g., Section 311 of the Act which establishes a penalty of \$5,000 "for each offense." The court reasoned that, while two sections were not exactly analogous, it was clear from the

distinct differences in the respective language used by the Congress, that Congress knew how to prescribe a penalty for each violation if it chose to do so. (Id.) The court added that its opinion had support in the legislative history of the Act, as well as its own perspective that "while a \$10,000 per violation per day penalty would also tend to effectuate the Congressional enforcement purpose, the truly devastating impact of such a construction on business is not what Congress intended. Such a rule would tend more towards confiscation than mere deterrence. Had Congress intended a per violation unit for computation of penalties, the Court is of the opinion that it would have more clearly expressed such an intent." (Id. at 738.)

If this case goes to trial, the above cited opinion more than likely will be used by the Defendant in an attempt to influence the district court in making its penalty assessment. To meet this, the government should be prepared to distinguish the opinion by emphasizing the following factors:

1. the opinion does not represent a controlling authority that the United States District Court for the District of Montana is bound to follow;

2. the Detrex court committed a fatal flaw in its analysis by not considering the full scope of the statutory language that it examined. While it may be conceded that the application of a per violation per day civil penalty or fine would have a devastating impact on the regulated community; this possibility of such devastation is the deterrent factor necessary to assure compliance with the respective environmental laws and regulations. It should be argued that any lesser application of the remedy provisions of the Act would amount to a mere smack on the hand for willful disregard of the environment. Sources of fresh and pure drinking water are not infinite in this country. These resources, the maintenance of their quality, and the health and safety of human consumers should be protected from corruption and contamination by the thoughtless and irresponsible exploitation of our country's natural resources and overall environment.

E. Discovery

Pre-trial discovery would be useful in a number of areas. Principally, interrogatories should be used to gather information from corporate officials as to when they became aware of the requirements of the Safe Drinking Water Act's underground injection control program and when they became aware of their company's noncompliance. This information will be helpful when analyzing the willfulness issue. This assumes that the Agency pursues a civil course of action with willful being an important factor to prove aggravation.

Additionally, other information or evidence that are obtainable through discovery which would enhance the government's case, if available, include field Records of the Mechanical Integrity Tests (MIT) that were run during the week of October 12, 1984, prior to allowing an impartial inspector to witness the tests. Mr. Johnson stated, that all three wells subject to this proposed enforcement action failed these tests, in a telephone call to Laura Clemmens on October 17, 1984. (Refer to Exhibit 5.) In addition, copies of reports documenting the work performed on the wells subsequent to the MIT failures would indicate what deficiencies needed to be corrected, and what repairs were actually performed. The field reports for each well during the period of violation would also be requested.

F. Government Witnesses

1. Patrick Crotty, 8WM-DW
Ground Water Section Chief
Drinking Water Branch
Water Management Division
U.S. Environmental Protection
Agency
1860 Lincoln Street
Denver, Colorado 80295-0699
FTS: 564-1412

Mr. Crotty is the Underground Injection Control Program Section Chief. He would be one of the Agency's principal witnesses. He will provide testimony on the requirements imposed under the UIC program and the Safe Drinking Water Act, and the objectives it is intended to secure, including those of health and safety matters associated with drinking water contamination.
2. Richard R. Long, 8WM-DW
Ground Water Coordinator
Water Management Division
U.S. Environmental Protection
Agency
1860 Lincoln Street
Denver, Colorado 80295-0699
FTS: 564-1445

Mr. Long was the UIC team leader during the time when the decisions were made to investigate Grace Petroleum and other oil producers in the East and Northwest Poplar Fields, Roosevelt County, Montana. Mr. Long's principal responsibilities included coordinating the Federally Administered UIC Program in Montana.
3. Laura Clemmens, 8WM-DW
Physical Scientist
Drinking Water Branch
Water Management Division
U.S. Environmental Protection
Agency
1860 Lincoln Street
Denver, Colorado 80295-0699
FTS: 564-1419

Ms. Clemmens is a member of the UIC program staff at Region VIII, and has been assigned to review the Grace Petroleum permit applications. Ms. Clemmens will testify on her direct contacts with the Defendant (its representatives). Ms. Clemmens is intimately familiar with the initial reasons for requiring the

Defendant to apply for a permit and the efforts of the Agency to bring the Defendant into compliance. Ms. Clemmens was also the principal developer of the penalty policy analysis used for this case.

4. William E. Engle, 8MU
Environmental Engineer
Montana Operation Office
U.S. Environmental Protection
Agency
Federal Office Building
Drawer 10096
301 South Park
Helena, Montana 59622-0026
FTS: 585-5414

Mr. Engle works in the EPA Montana Operations Office and has had direct contact with the Defendant. Mr. Engle will testify on his contacts with the Bureau of Indian Affairs and the complaints received from the Bureau regarding the contamination of sources of drinking water in the area near Grace's injection operation. He will also testify on his contacts with Grace Petroleum representatives' prior to expiration of the company's authorization to inject. Additionally, Mr. Engle will testify to his on-site inspection of the Poplar Field in Montana.

5. Max H. Dodson, Director
Water Management Division
U.S. Environmental Protection
Agency
1860 Lincoln Street
Denver, Colorado
FTS: 564-1542

Mr. Dodson is the Director of the Water Management Division, EPA Region VIII. Mr. Dodson will testify to his telephone conversation informing Mr. Johnson, of Grace Petroleum of his company's loss of authorization to conduct injection activities and that the wells should be shut-in.

6. Gustav Stolz, 8WM-DW
Petroleum Engineer
Drinking Water Branch
Water Management Division
U.S. Environmental Protection
Agency
1860 Lincoln Street
Denver, Colorado 80295-0699
FTS: 564-1413

Mr. Stolz assisted Laura Clemmens in developing the penalty policy figures in this case, and will testify as to the basis for the figures, their derivation and the benefit factors therein described. Mr. Stolz is a seasoned Petroleum Engineer. He has served as a full Professor of Petroleum Engineering and was head of the Petroleum Engineering Program at the Montana School of Minerals Science and Technology. Mr. Stolz has also testified as an expert witness during his years in the private sector.

7. James Johnson
Manager of Operations
Grace Petroleum Corporation
143 Union Boulevard
Suite 760
Lakewood, Colorado 80228
Tel: 303-825-8193

Mr. Johnson is responsible for production operations in Montana, North Dakota, South Dakota, Nebraska, Wyoming, Colorado, Utah and New Mexico. It is assumed he would be a hostile witnesses. His deposition would be taken respecting the violations to support a motion for summary judgment.

8. Robert Coffia
Manager of Security and
Regulatory Affairs
Grace Petroleum Corporation
6501 North Broadway
Oklahoma City, Oklahoma 73116
1-800-654-9175

It is also anticipated that Mr. Coffia would be deposed in support of a motion for summary judgment.

G. Defense Witnesses

Matt Strever, Geologist
Grace Petroleum Corporation, Lakewood Office

Mr. Strever prepared the initial Grace UIC permit applications and was the Grace representative who contacted Bill Engle at the EPA Helena, Montana office (may also be called as EPA witness).

Dane Anderson, Engineer
Grace Petroleum Corporation
Lakewood Office

Since January 1985, Mr. Anderson has been the primary person respecting the Grace UIC permit applications (may also be called as EPA witness) .

Other probable defense witnesses who can be identified at this time are: Robert Coffia, Manager of Security and Regulatory Affairs; James Johnson, District Operations Manager, Western Region. These two men are responsible for certain administrative functions of the company and have been the chief contacts for EPA. These men will most likely offer testimony on the "technical" aspects of the violations and that no personal or environmental harm resulted from their company's violations of the UIC program requirements. Certain company technical personnel may testify on the integrity of the subject wells; giving support on the "merely technical violations" argument which is anticipated.

VI. ANTICIPATED DEFENSES

A. Legal Defenses

The defendant could raise questions on the government's jurisdiction to require it to apply for permits for the three wells. This merits particular consideration since the wells were originally grandfathered in under the regulatory provisions for "by rule" authorization. (See Part III. A.; 40 C.F.R. §§144.3, 144.21.) However, this jurisdictional challenge can be easily answered. The Administrator is authorized under certain prescribed conditions to require even those injection operations authorized by rule, to apply for a permit. (See 40 C.F.R. §§144.25, 144.31 and the discussion in Part III. A.)

Additionally, any action of the Administrator for which review could have been obtained under Section 1448 of the Act, 42 U.S.C. §300j-7 is not subject to judicial review in any civil or criminal proceeding for enforcement, or in any civil action to enjoin enforcement. Under Section 1448 of the Act, action of the Administrator in making any determination under the Act is subject to judicial review by the United States Court of appeals for the circuit in which the determination was made. Such review is to be initiated through petition and must be filed within 45 days after the date of the determination. In the subject case the defendant is out-of-time.

The Director, M00, acting for the Administrator, determined that the three underground injection wells named in this proposed action were subject to the jurisdiction of the Administrator under the provision of the Act and the regulation promulgated as the UIC program. It is herein proposed that this determination is one contemplated by the provision of Section 1443 and that any challenge to this determination must have been raised within 45 days after its having been made, and accordingly, such determinations cannot be raised as defenses to this proposed enforcement action. (See Section 1448 of the Act, 42 U.S.C. §300j-7.)

B. Equitable Defenses

Arguments of financial or economic hardship, managerial faux pas, confusion, lack of intent, and claims that the violations are only "technical" ones that precipitated no adverse health effects, nor any adverse environmental impact are expected to be made by the Defendant. In our view, these are all without merit. However, we anticipate no traditional "equity" defenses being raised.

VII. ISSUES OF NATIONAL OR PRECEDENTIAL IMPACT

Currently, there are no judicial interpretations of the requirements imposed by the UIC program vis-a-vis the attendant enforcement mechanisms provided under the Safe Drinking Water Act. This case addresses significant issues of national or precedential impact. It raises consideration of whether allegations of willful noncompliance under §1423(b)(2) of the Act are criminal acts; further, it will serve to establish Agency policy that unauthorized injection activity is a serious matter and that the protection of underground sources of drinking water is an Agency priority; it will provide precedent for the application of the Administrator's authority to act under the authority granted him via the various UIC regulations promulgated in Parts 124, 144, 146, 147 of 40 C.F.R., and the statutory mandate found in Part C of the Safe Drinking Water Act.

VIII. PENALTY CALCULATION

Through a (modified)* application of the Agency's civil penalties calculation policy guidance, we have attempted to establish and document the monetary amount determined as necessary to negate whatever economic benefit that was gained by the Defendant through its unauthorized underground injection activities.

Establishing this figure involved the combination of a quantified "benefit component" plus a "gravity component." The figure resulting from the combination of these two components is called the "preliminary deterrence figure." The "preliminary deterrence figure" is adjusted after consideration of factors unique to the specific violation. This adjustment is the factors which include, but are not necessarily limited to: elements of willfulness, cooperation, history of compliance, ability to pay and competing public policy considerations. The adjusted "preliminary deterrence figure" is then considered as the Initial Penalty Target Figure.

*/ Currently, there is no program specific civil penalty calculation guidance for violations of the Safe Drinking Water Act and its implementing regulations. When adapting the currently available EPA guidance from other programs to the particulars of this case, the authors of this Litigation Report conferred with George Denning, Office of Drinking Water; Virginia Lathrop, Drinking Water Enforcement, and Alan Morrissey, Office of Enforcement and Compliance Monitoring (OECM).

The principal agency document used to derive the figures applied to this Penalty Calculation is "A Framework For Statute Specific Approaches To Penalty Assesments: Implementing EPA's Policy On Civil Penalties", EPA General Enforcement Policy GM-22, and is hereinafter referred to as the "New Civil Penalty Policy."

A. Benefit Component For the purposes of this discussion, Region VIII considers the date that Grace shut-in the three subject wells to be the "date of compliance", since Grace was no longer injecting without authorization. The computation of the benefit component is comprised of three categories: 1) Benefit from delayed costs; 2) Benefit from avoided costs; and 3) Benefit from competitive advantage.

(1) Benefit from Delayed Costs

(a) Benefit from Improper Disposal - \$127,145

Grace Petroleum benefited substantially from the improper disposal of brines by its continued unauthorized injection activities. Figures on the production benefits are rough estimates of industry costs and revenues which were provided by Gustav Stolz, Petroleum Engineer for the Drinking Water Branch of the EPA Region VIII Office. It is herein proposed that all revenues derived during the period of Grace's unauthorized injection are benefits derived from improper disposal. After its loss of authorization to conduct the injection activities necessary to sustain its production, the company had three choices: (1) find an alternative method of disposing its wastes, (2) halt production, or (3) continue production and the unauthorized injection of the brine wastes.

Jim Johnson stated on October 12, 1984, that 18 oil wells in the Poplar Field were producing approximately 157 barrels of oil per day (BOPD) in conjunction with the brine. The oil revenues from the producing wells are estimated to be approximately \$25.00 per barrel. (The \$25 figure was obtained from Dane Anderson, a Petroleum Engineer with Grace Petroleum. Mr. Anderson mentioned \$25 as the market rate for a barrel of oil when discussing the losses and revenues in the Poplar Field with EPA staff). (Exhibit 13.)

It is crucial to the effective application of the Agency's penalty assessment policy that any benefit obtained by Grace while injecting without authorization be negated. The net income for the period of violation has been estimated to be \$127,145, using the following formula*:

Net Income = Gross Income - Production/Operating Costs - SWD Costs
 (\$25/Barrel) (\$33/well/day) - (.30/Barrel)
Net Income = (157 Barrels x \$25) - (\$33 x 18 wells) - (3905 Barrels x .30)
Net Income = \$3925 per day - \$600 per day - \$1170 per day
Net Income = \$2155 per day x 59 days
Net Income for period of violation \$127,145

*Assumptions:

Production well operating costs: \$33 per day per well
Salt water disposal costs: \$.30 per barrel
Revenue from oil production: \$25 per barrel

As of September 28, 1984, the three subject wells were reported to be shut-in. At the same time, in order to reduce the volume of brine to be disposed of, production in the field was cut to one-half. The brines produced during this period were hauled off site to a nearby disposal well and injected legally at a cost of roughly \$7,000. per day. However, it is herein maintained that the money spent to dispose of the produced brine from the date of compliance forward is money expended to maintain production, not to maintain compliance. Therefore, EPA feels that although the benefit from the oil revenues from production was most likely offset by the amount spent to haul the produced brines after the three disposal wells were shutin, EPA will not consider these costs of continued production as a mitigating factor.

(b) Benefit from Delaying Submittal of Permit Application:

Grace Petroleum enjoyed only negligible benefit from delaying actual permit application, considering that application for permits is standard operating procedure for oil companies.

(c) Benefit from Delaying Performance of Repair Work - \$363.00

During the period of unauthorized injection, Grace Petroleum injected brine waste into three wells without authorization for 59 days. These wells were demonstrated not to have mechanical integrity. Beyond the benefit received by Grace Petroleum through the improper disposal of brines for 59 days, EPA also believes

that Grace benefited by delaying making the expenditures necessary to achieve compliance with UIC program requirements protecting USDWs. All three subject wells have casing leaks, and did not pass the mandatory mechanical integrity tests. Grace would have had to spend approximately \$15,000 per well (\$45,000 total) to perform the required repair work on the tubing and casing, scale removal, reseating of packers, performance of Cement Bond Logs and injection profiles to render the wells fit for injection.

The rule of thumb set in the New Civil Penalty Policy effective February, 1984, states: "The economic benefit of delayed compliance may be established at 5% per year of the delayed one-time capital cost for the period from the date the violation began until the date compliance was or is expected to be achieved." Accordingly, 5% of the one-time capital cost per year of violation (59 days pro-rated) equates to 5% of capital cost (\$45,000) multiplied by the pro-rated period of violation (59/365): $\$2250 \times 59/365 = \363 .

(d) Benefit from Delaying Plugging and Abandonment - \$242

Grace benefited from delayed costs by avoiding the inevitable cost of plugging and abandoning the three wells. Grace estimated in the plugging and abandonment plans submitted with its UIC permit applications that it would cost approximately \$10,000 to properly plug and abandon each well.

The rule of thumb set in the New Civil Penalty Policy effective February, 1984, states: "The economic benefit of delayed compliance may be established at 5% per year of the delayed one-time capital cost for the period from the date the violation began until the date compliance was, or is expected to be achieved." Accordingly, 5% of the one-time capital cost per year of violation (59 days pro-rated), equates to 5% of capital cost (\$30,000) multiplied by the pro-rated period of violation (59/365): $\$1500 \times 59/365 = \242 .

(2) Benefit from Avoided Costs*. In order to maintain full production after having lost authorization to inject for the three subject wells, Grace had to dispose of the brine wastes produced in conjunction with its oil production activities. The disposal of the brines could be accomplished through continued on-site underground injection (which was unauthorized and thereby illegal) or by hauling the brines via common carrier for disposal at an authorized injection site.

*/ The avoided costs are those costs necessary to maintain production at the same level as was maintained during the period of violation, but maintained through using legally acceptable means.

Grace, having elected to continue its injection activity, avoided the cost of hauling, which would have been an acceptable and legal alternative to its continued unauthorized injection.

The avoided cost of hauling and disposing of the brines for the 59 days of violation has been determined as following:

3905 BWPD ** x \$1.50 per barrel *** x 59 days = \$346,625
for the period of violation

(3) Benefit from Competitive Advantage. It has not been ascertained that Grace has benefited from any true competitive advantage. Accordingly, no dollar amount is included for this component.

**/ Figure obtained from Permit Applications filed with the Drinking Water Branch in September 1984. (Exhibits 14, 15, & 16 respectively for Goings Government # 1; EPU110-XD; and Buck Elk # 2 salt water disposal wells.)

***/Figures obtained from meeting with Dane Anderson, of Grace Petroleum, on January 30, 1985.

Summary of Benefit Component:

Benefit from improper disposal:	\$127,145
Benefit from delaying performance of repairs:	\$ 363
Benefit from avoided costs	\$346,625
Benefit from delaying plugging and abandonment:	\$ 242
Total Benefit Component:	\$474,375

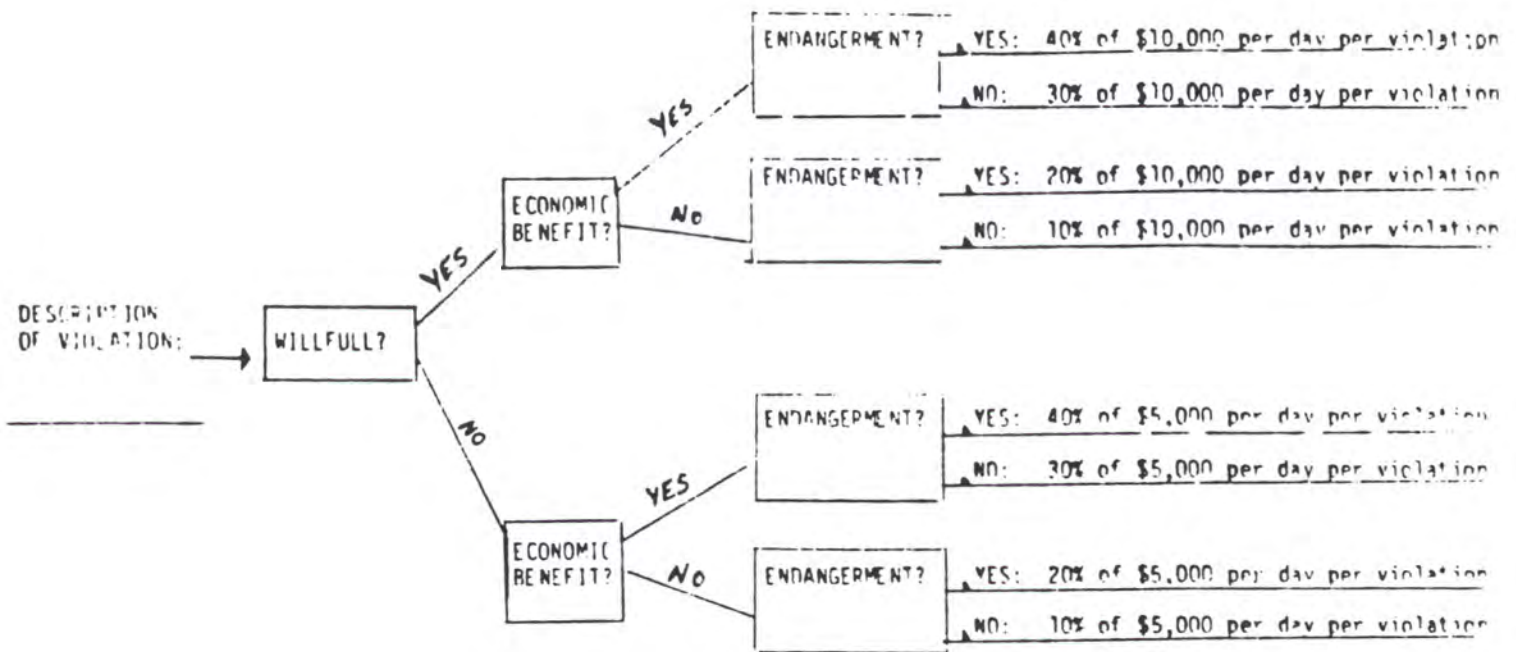
B. Gravity Component

The Gravity Component is the second portion of the Preliminary Deterrence Figure. UIC program staff, in its "Compliance Strategy for Direct Implementation Jurisdictions," (September 27, 1984) identified 28 types of violations. These violations have been divided into three categories which reflect a descending level of priority, Category I being more serious than Categories II and III. (Exhibit 17.)

Grace Petroleum's unauthorized injection (which is complicated by possible endangerment of underground sources of drinking water due to evidence of leaking casings and coinciding reports of chloride contamination of drinking water sources in the area) falls under Category I. Additionally, Grace made no apparent efforts to investigate, after being informed of the area drinking water contamination, whether its wells were responsible. These factors, as well as the company's apparent willful disregard for the regulatory requirements render application of the gravity component appropriate.

It would not be prudent to define the dollar amount for the gravity component in a purely subjective fashion. A systematic approach in the form of a flow chart has been created to enable EPA to demonstrate a reasoned decision making process. Using the flow chart (Figure 1), any violation can be ranked by objective "cuts." At the end of the flow chart, the violation falls into one of eight levels of seriousness. Each of the eight levels is ranked and a dollar amount per day of violation is assigned to each level. The dollar amount is based on the maximum statutory penalty amounts allowed in the Act. For example, if a violation were determined to fall into the most serious category, the gravity component would be set at 40% of the maximum civil penalty amount per day, per violation.

FIGURE 1



Any figure established by using the flow chart above could be modified further by using the adjustment factors discussed on the following page.

Applying the flow chart in Figure 1 to the Grace Petroleum history in which there was considerable economic benefit and willful violation for 59 days, Grace Petroleum's unauthorized injection is ranked into the second most serious category. Accordingly, the gravity component is calculated as follows:

30% of \$10,000 per day/per violation
30% of \$10,000 x 59 x 3
\$531,000 = gravity component

Combining the gravity and benefit components yields the Preliminary Deterrence Figure. This figure is then amended by applying certain applicable adjustment factors to the gravity component only.*

The first adjustment factor applicable to this situation is willfulness. The violator had control over the events that occurred. Notification of the necessity for permit application was given thirty-five days in advance of the due date. The violation was therefore foreseeable, although the defendant may not have foreseen the consequences of said violation. Reasonable precautions were not taken to prevent the unauthorized injection. In fact, the defendant flagrantly continued to inject after being notified of the unlawfulness of such injection.

While the defendant was aware of the chloride contamination in the area, they asserted that the wells had integrity, at least until the date of the preliminary MITs. It is presumed that the defendant was well aware of the legal requirements under the UIC regulations just as all other members of the regulated community. Letters advising Grace Petroleum of these requirements were twice sent to two Grace representatives (Johnson and Coffia), yet the injection activity continued. EPA maintains that the defendant willfully injected without authorization for the 59 day period. Adjustment +20% of gravity component.

The second adjustment factor is the degree of cooperation/non-cooperation that EPA experienced in dealing with the violator. Defendant has remained honest and straightforward, in advising EPA of the wells' status. EPA was informed when the wells were operating

*./ The adjustments are applied against the gravity component figures only, because, the penalty policy is designed to negate all benefits derived from unlawful activity. See EPA General Enforcement Policy #GM-22, A Framework For Statute Specific Approaches To Penalty Assessments: Implementing EPA's Policy on Civil Penalties, at page 6; See also id., at page 17.

without authorization, and when the wells failed the preliminary MITs. EPA was also advised when the wells were shut-in.; Adjustment -50% of gravity component.

The third adjustment is for the Company history of previous compliance with environmental statutes. Because this is the first UIC enforcement case, there is no previous record of compliance for the Grace Corporation. However, if the Corporation has a record of past compliance with other environmental statutes, an adjustment may be appropriate.

The fourth adjustment factor is for the ability to pay. Grace Petroleum is the sixth largest independent among American oil companies. It is wholly owned subsidiary of the W.R. Grace Company and had projected after-tax, operating profits in excess of fifty million dollars. The ability to pay the proposed penalty and/or fine is thereby satisfactorily demonstrated. Accordingly, no adjustment factor is appropriate.

The final adjustment factor is that of consideration of the defendant's temporary mismanagement. The Lakewood office of Grace Petroleum to which the application was sent had undergone a reduction of personnel (from 29 to 6 employees). The application from EPA arrived during the reorganization. The application was eventually filed, although 7 days late. Nonetheless, EPA does not share managerial responsibility with members of the regulated community, and is satisfied that the 35 days given to submit the application were reasonable and sufficient. No adjustment factor is appropriate.

C. Initial Penalty Target Figure

Benefit Component:	\$474,375.00
Gravity Component	531,000.00
(Adjustments to Gravity Component:+20%,-50%,)	<u>-159,300.00</u>
INITIAL PENALTY TARGET FIGURE:	\$846,075.00

IX. REMEDIES/RESOLUTION STRATEGY

A. Statutory Penalties

Under the provisions of Section 1423 (a) and (b) of The Safe Drinking Water Act, the Administrator is authorized to commence civil actions for violations of the Act and to recover civil penalties up to five thousand dollars (\$5,000.00) per day of such violation. Additionally, where the violations are determined to have been "willful", the Act provides that, in lieu of the civil penalty, the defendant is subject to a fine of not more than ten thousand dollars (\$10,000) per day of such violation.

Accordingly, the defendant in this case, having violated the provisions of the UIC regulations for fifty nine (59) days at three of its regulated underground injection well operation sites, is subject to maximum civil penalties or fines of between eight hundred eighty five thousand dollars (\$885,000) and one million seven hundred seventy thousand dollars (\$1,770,000).

B. Summary Judgment

Federal Rule of Civil Procedure 56(c) allows for the awarding of summary judgment if the court finds: 1) there is no genuine issue of any material fact, and 2) the moving party is entitled to judgment as a matter of law. There are no indications that the government's position respecting Grace Petroleum's unauthorized injection activities for the 59 days alleged in the complaint will be subject to any credible attack. Additionally, if the court finds that such injection activity was done without authorization, as is the government's legal position in this action, the government is entitled to judgment as a matter of law.

Accordingly, because of the lack of colorable legal and equity defenses, and no indications that material facts alleged in this case will be subject to merit worthy attack, the potential for success on a motion for summary judgment is excellent.

C. Settlement Potential

The defendant is aware that EPA has been contemplating taking an enforcement action against it, and has expressed a willingness to engage in settlement talks. This coupled with the large penalty that potentially could be levied against the defendant for the alleged violations leads to the conclusion that settlement potential in this case is great.

While the settlement potential in this case may be great, other considerations, such as the need to establish legal precedent, may weigh against settlement. The government has routinely taken into account precedential consideration's in deciding whether to settle a particular case. An opinion from a federal judge favoring the government's position in this case may have a greater deterrent effect on other similarly situated violators than a negotiated settlement. This case, being the first such proposed enforcement action under the UIC regulations, involves novel points of law that if favorably decided, could undoubtedly affect the outcome of many subsequent cases, as well as the agency's policy considerations.

If settlement of this matter is sought or presents itself as an appropriate method of resolution, certain innovative injunctive or remedial activities by the Defendant should be considered. It is the view of the program staff involved in developing this case, that because the UIC program is a new one, most of the acts of noncompliance will more than likely result from ignorance among members of the regulated community. While monetary penalties and fines serve as deterrents against similar violations occurring in the future, the Drinking Water Program staff has proposed that a greater public interest could be served if, in addition to the monetary penalties, the defendant perform certain public interest activities to "get out the message."

In the present case, Grace Petroleum is the country's sixth largest independent producer of oil. As such, it has access to various trade organizations and their respective journals and conferences. The UIC program's regulatory scheme and requirements could be better advertised from within and among the affiliates of such organizations. The excuse of ignorance, while not a legal defense, could be eradicated by communication among the trade's members. Grace Petroleum could initiate such communication pursuant to a negotiated agreement at settlement or per the requirements of a court order.

Accordingly, it is recommended that a summary judgment be sought, with respect to the issues of liability under the Act. As to the penalty assessment, while acknowledging the policy of pleading the statutory maximum, use of the civil penalties policy calculation may be appropriate when addressing the penalty issue before the court. "[W]ell reasoned recommendations based on fair principles consistently applied"* will serve to assist judges to make better decisions. In this case the statutory maximum and amount calculated using the civil penalty policy are substantially equal.

*/ EPA, Civil Penalty Policy for Air and Water Cases, July 17, 1980, 6-7 (1980).

CASE SUMMARY

Nature of Case

This is a proposed civil action under Section 1423(b)(1) of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300h-2(b)(1), for violations of the Underground Injection Control (UIC) Program regulations promulgated in 40 C.F.R. Part 144. The defendant in this case, the Grace Petroleum Corporation, is the owner/operator of three salt water disposal wells in the Poplar Field, Roosevelt County, Montana. This proposed action seeks civil penalties for the defendant's unauthorized use of these wells in violation of EPA regulations.

Cause of Action

Under the UIC program regulations, all underground injection of fluids is prohibited unless authorized by rule or permit. Grace Petroleum is the owner/or operator of at least three injection wells in the Poplar Field, Roosevelt County, Montana. Between July 31, 1984, and September 28, 1984, these wells, were engaged in the underground injection of fluids without the required authorization. This is a violation of EPA's 40 C.F.R. Part 144 regulations.

Proposed Remedy

Section 1423(b)(2) of the SDWA, 42 U.S.C. 300h-2(b)(2), provides for ". . . (A) . . . a civil penalty of not more than \$5,000 for each day of such violation, or (B) if such violation was willful . . . [a fine of] . . . not more than \$10,000 for each day of violation." We are requesting the maximum monetary penalty for the violation alleged. Based on 59 days of violation, the maximum penalty/fine would be in between \$885,000 and \$1,770,000.

Prior to referring this case, we consulted the criminal investigation staff assigned to Region VIII to determine if the case, on its face, merited the additional investigation necessary to support a criminal referral. Although, there appeared to be an element of willfulness in the actions of the defendant, it was the opinion of the criminal investigation staff that given priorities, and the lack of penal provisions in the statute, further criminal investigation would not be recommended. Therefore, we are referring the subject case as a civil action and requesting the lower civil penalty figure as a remedy. This figure is still a substantial sum.

Issues of National or Precedential Significance

This proposed action presents several issues of national or precedential significance.

1. It is the first UIC referral. Since there are no prior cases, there is no prior interpretation of EPA's 40 C.F.R. Part 144 regulations. Any interpretation by the court would be precedential.

2. This case could also establish legal precedent for construing the willful violation provision of Section 1423(b)(2) of the Act, to be a criminal prohibition. Under Section 1423(b)(2) of the Act "Any person who violates any requirement of an applicable underground injection control program . . . (A) shall be subject to a civil penalty of not more than \$5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty . . . be fined not more than \$10,000 for each day of such violation." While it is our position that the violations alleged in this proposed action are willful and thereby subject to the \$10,000 per day fine, this case has been referred for recovery of the \$5,000 civil penalty because of the yet unsettled view within the agency, of construction on the use of "willful" and "fine" in the statute. The legislative history of the Act could support the view that Congress intended these terms to invoke a criminal prohibition. Nonetheless, because of the Act's relatively mild monetary fine, when viewed in respect with the other environmental statutes with criminal prohibitions, and absence of provisions for terms of incarceration, it could be argued that the higher [fine] amount is civil, not criminal.

For the above reasons, it was decided that this case should be referred for civil prosecution. However, we are transmitting a copy of the Litigation Report to the Criminal Enforcement Division for review, and propose that, if it can be determined that this case merits attention as a matter for criminal process; it should then be considered for such treatment and that the civil action initially proposed be held back. Currently, there are no judicial interpretations of Section 1423 of the Act. This case could provide the agency with strong precedent regarding the available enforcement mechanisms under the Act.

Regional Contacts

Al Smith, Associate Regional Counsel, is the Regional Legal contact for this case and can be reached at FTS 564-1470. Laura Clemmens is the Regional Technical contact and can be reached at FTS 564-1419.

Use of Case Development Process

Recognizing this proposed action's potential for affecting future agency policy and creating legal precedent regarding the applicable law, the Office of Regional Counsel conferred with the Office of Drinking Water, Office of Enforcement and Compliance Monitoring (OECM), and Department of Justice (DOJ) personnel. The respective contacts among those offices were John Atcheson and George Denning; Peter Murtha of the Criminal Enforcement Division, and Alan Morrissey and David Drellich of the Water Enforcement Division; at the Department of Justice the principal contact was David Buente, Environmental Enforcement Section Chief. These contacts were regular and numerous; all in an attempt to address each issue that could arise from this proposed action. The Water Enforcement Division contacts were instrumental in assisting in the development of the Litigation Report and the identification of issues of national and precedential impact.

We are prepared to proceed with this action as soon as the appropriate Headquarters review is completed.

Because this is the first UIC referral, we have agreed with OECM that it should be a "jointly managed" case. Therefore, it is recommended that the "Lead Agency Attorney" role be shared between Alan Morrissey, OECM, and Al Smith, Associate Regional Counsel, Region VIII. Both have corroborated in the development of this case.

GRACE PETROLEUM CORPORATION
POPLAR FIELD, MONTANA
EXPENSE AND PROFIT/(LOSS) ANALYSIS
August 1984

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Line No.	Gross Working Interest Revenues Net of Royalty Plus Taxes	Pumpers Plus Foremen Salaries Plus Burdens	Repairs and Materials	Power and Fuel	Well Servicing	Treating and Chemicals	Auto Expense	Saltwater Disposal	Is Ad V Plus
(1) Baker-Coulter	\$ 1.48	\$ 372.72	\$3,133.00	\$ 219.92	-	\$ 526.32	\$ 71.97	-	\$
(2) Buck Elk	4,276.63	372.72	92.82	510.74	-	-	71.97	-	
(3) Cowan-Western	5,245.44	372.72	1,054.58	96.49	-	410.72	71.97	-	
(4) Cut Hair	9,988.39	372.72	3.10	789.95	-	-	71.97	-	
(5) EPU-110	-	372.72	-	-	-	-	71.97	\$(1,683.11)	
(6) Goings 1-10	20,171.12	372.72	31.33	202.49	-	536.32	71.97	-	
(7) Goings SW Disposal	-	372.72	255.50	-	-	314.00	71.97	-	
(8) Huber (Devonian)	7,612.27	372.72	10.80	-	-	-	71.97	1,119.11	
(9) Huber (Madison)	16,598.63	1,118.13	476.74	1,022.99	-	-	215.91	678.75	
(10) Iron Bear	4,614.52	745.41	3,608.48	697.32	\$4,004.00	821.44	143.94	-	
(11) Reid 10-1	-	372.72	-	357.13	-	-	71.97	-	
(12) Richards 1-3	3,876.16	372.72	97.33	223.55	-	536.32	71.97	-	
(13) Richards 2-1	1,502.52	372.72	97.33	284.32	-	536.32	71.97	-	
(14) War Club 1R	22,271.60	-	31.34	131.98	-	410.72	-	-	
(15) War Club 2	6,249.64	372.72	546.34	449.98	-	536.32	71.97	-	
(16) Zimmerman	23,907.48	372.25	31.33	300.70	-	410.72	72.01	-	
(17) Totals	\$126,315.88	\$6,708.90	\$6,668.35	\$5,287.56	\$4,004.00	\$5,049.20	\$1,295.50	\$ 114.75	\$
(18) Percent of Total Operating Expense		17.0%	16.1%	13.4%	10.0%	12.8%	3.3%	0.3%	
(19) Expenses Per Barrel Produced		\$1.38	\$1.32	\$1.08	\$0.82	\$1.04	\$0.27	\$0.2	

J/7 3/25/86

September 1984

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Line No.	Gross Working Interest Revenues Net of Royalty Plus Taxes	Pumpers Plus Foremen Salaries Plus Burdens	Repairs and Materials	Power and Fuel	Well Servicing	Treating and Chemicals	Auto Expense	Saltwater Disposal	Is Ad V Plus
(1) Baker-Coulter	\$ 6,432.37	\$ 381.97	-	\$ 205.98	-	\$ 314.00	\$ 59.02	-	\$
(2) Buck Elk	-	381.97	\$ 50.00	568.60	-	-	59.02	-	
(3) Cowan-Western	5,080.40	381.97	2,167.99	150.54	-	235.50	59.02	-	
(4) Cut Hair	8,497.90	381.97	-	693.18	-	-	59.02	-	
(5) EPU-110	-	381.97	50.00	-	-	-	59.02	\$(1,467.92)	
(6) Goings 1-10	8,408.40	381.97	-	226.93	-	314.00	59.02	-	
(7) Goings SW Disposal	-	381.97	50.00	-	-	2,198.00	59.02	-	
(8) Huber (Devonian)	-	381.97	987.32	-	-	-	59.02	777.72	
(9) Huber (Madison)	15,687.95	1,145.92	3,971.00	1,229.04	\$1,230.00	942.00	177.06	690.20	
(10) Iron Bear	17,908.76	763.94	154.03	891.51	-	-	118.04	163.33	
(11) Reid 10-1	-	381.97	-	341.85	-	-	59.02	-	
(12) Richards 1-3	7,794.24	381.97	-	230.58	-	314.00	59.02	-	
(13) Richards 2-1	3,031.68	381.97	-	265.50	-	314.00	59.02	-	
(14) War Club 1R	(20,506.72)	-	575.00	85.99	-	235.50	-	-	
(15) War Club 2	1,229.76	381.97	34.71	-	-	314.00	59.02	81.67	
(16) Zimmerman	4,545.96	382.02	-	295.85	-	235.50	58.74	-	
(17) Totals	\$ 58,110.70	\$6,875.52	\$8,040.05	\$5,185.55	\$1,230.00	\$5,416.50	\$1,062.08	\$ 245.00	
(18) Percent of Total Operating Expense		18.2%	21.3%	13.7%	3.3%	14.3%	2.8%	0.6%	
(19) Expense Per Barrel Produced		\$1.61	\$1.91	\$1.23	\$0.29	\$1.28	\$0.25	\$0.06	

J/7 3/25/86

GRACE PETROLEUM CORPORATION
POPLAR FIELD, MONTANA
EXPENSE AND PROFIT/(LOSS) ANALYSIS
August 1984

EXHIBIT A

Line No.	(1) Gross Working Interest Revenues Net of Royalty Plus Taxes	(2) Pumpers Plus Foremen Salaries Plus Burdens	(3) Repairs and Materials	(4) Power and Fuel	(5) Well Servicing	(6) Treating and Chemicals	(7) Auto Expense	(8) Saltwater Disposal	(9) Other Including Ad Valorem Tax Plus Insurance	(10) Allocated Overhead Plus Combined Fixed Rate	(11) Total Expenses	(12) Total Working Interest Profit/(Loss)	(13) Grace Share of Working Interest Profit/(Loss)
(1) Baker-Coulter	\$ 1.48	\$ 372.72	\$3,133.00	\$ 219.92	-	\$ 526.32	\$ 71.97	-	\$ 120.34	\$ 340.00	\$ 1,692.60	\$(1,691.12)	\$(1,183.78)
(2) Buck Elk	4,276.63	372.72	92.82	510.74	-	-	71.97	-	100.95	465.00	1,614.10	2,662.43	2,662.43
(3) Cowan-Western	5,245.44	372.72	1,054.58	96.49	-	410.72	71.97	-	111.48	374.00	2,491.96	2,753.48	688.37
(4) Cut Hair	9,988.39	372.72	3.10	789.95	-	-	71.97	-	105.38	465.00	1,808.12	8,180.27	8,180.27
(5) EPU-110	-	372.72	-	-	-	-	71.97	\$(1,683.11)	23.87	465.00	(749.55)	749.55	749.55
(6) Goings 1-10	20,171.12	372.72	31.33	202.49	-	536.32	71.97	-	101.75	321.00	1,637.58	18,533.54	4,633.39
(7) Goings SW Disposal	-	372.72	255.50	-	-	314.00	71.97	-	66.68	374.00	1,454.87	(1,454.87)	(363.72)
(8) Huber (Devonian)	7,612.27	372.72	10.80	-	-	-	71.97	1,119.11	79.39	357.00	2,010.99	5,601.28	3,627.99
(9) Huber (Madison)	16,598.63	1,118.13	476.74	1,022.99	-	-	215.91	678.75	165.28	1,395.00	5,072.80	11,525.83	11,525.83
(10) Iron Bear	4,614.52	745.41	3,608.48	697.32	\$4,004.00	821.44	143.94	-	216.28	980.00	11,216.87	6,602.35	1,650.59
(11) Reid 10-1	-	372.72	-	357.13	-	-	71.97	-	1,617.24	330.00	2,749.06	(2,749.06)	(687.27)
(12) Richards 1-3	3,876.16	372.72	97.33	223.55	-	536.32	71.97	-	102.50	374.00	1,778.59	2,007.77	524.44
(13) Richards 2-1	1,502.52	372.72	97.33	284.32	-	536.32	71.97	-	102.50	374.00	1,839.16	(335.64)	(84.16)
(14) War Club 1R	22,271.60	-	31.34	131.98	-	410.72	-	-	84.25	-	658.29	21,613.31	5,403.32
(15) War Club 2	6,249.64	372.72	546.34	449.98	-	536.32	71.97	-	152.12	374.00	2,503.45	3,746.19	936.54
(16) Zimmerman	23,907.48	372.25	31.33	300.70	-	410.72	72.01	-	117.30	374.00	1,678.31	22,229.17	5,557.29
(17) Totals	\$126,315.88	\$6,708.90	\$6,368.35	\$5,287.56	\$4,004.00	\$5,049.20	\$1,295.50	\$ 114.75	\$3,267.31	\$7,362.00	\$39,501.61	\$86,814.27	\$40,497.90
(18) Percent of Total Operating Expense		17.0%	16.1%	13.4%	10.0%	12.8%	3.3%	0.3%	8.4%	18.6%			
(19) Expenses Per Barrel Produced		\$1.38	\$1.32	\$1.08	\$0.82	\$1.04	\$0.27	\$0.2	\$0.67	\$1.51			

J/7 3/25/86

September 1984

Line No.	(1) Gross Working Interest Revenues Net of Royalty Plus Taxes	(2) Pumpers Plus Foremen Salaries Plus Burdens	(3) Repairs and Materials	(4) Power and Fuel	(5) Well Servicing	(6) Treating and Chemicals	(7) Auto Expense	(8) Saltwater Disposal	(9) Other Including Ad Valorem Tax Plus Insurance	(10) Allocated Overhead Plus Combined Fixed Rate	(11) Total Expenses	(12) Total Working Interest Profit/(Loss)	(13) Grace Share of Working Interest Profit/(Loss)
(1) Baker-Coulter	\$ 6,432.37	\$ 381.97	-	\$ 205.98	-	\$ 314.00	\$ 59.02	-	\$ 64.88	\$ 380.00	\$ 1,365.85	\$ 6,066.52	\$ 3,546.56
(2) Buck Elk	-	381.97	\$ 50.00	568.60	-	-	59.02	-	45.49	465.00	1,570.08	(1,570.08)	(1,570.08)
(3) Cowan-Western	5,080.40	381.97	2,167.99	150.54	-	235.50	59.02	-	56.02	374.00	3,425.04	1,655.36	413.84
(4) Cut Hair	8,497.90	381.97	-	693.18	-	-	59.02	-	49.92	465.00	1,649.09	6,848.81	6,848.81
(5) EPU-110	-	381.97	50.00	-	-	-	59.02	\$(1,467.92)	11.22	465.00	(500.71)	500.71	500.71
(6) Goings 1-10	8,408.40	381.97	-	226.93	-	314.00	59.02	-	46.29	321.00	1,349.21	1,059.19	1,764.80
(7) Goings SW Disposal	-	381.97	50.00	-	-	2,198.00	59.02	-	11.22	374.00	3,074.21	(3,074.21)	(768.55)
(8) Huber (Devonian)	-	381.97	987.32	-	-	-	59.02	777.72	23.93	357.00	2,586.96	(2,586.96)	(1,675.60)
(9) Huber (Madison)	15,687.95	1,145.92	3,971.00	1,229.04	\$1,230.00	942.00	177.06	690.20	84.54	1,395.00	10,864.76	4,823.19	4,823.19
(10) Iron Bear	17,908.76	763.94	154.03	891.51	-	-	118.04	163.33	148.19	980.00	3,219.04	14,689.72	3,672.43
(11) Reid 10-1	-	381.97	-	341.85	-	-	59.02	-	561.78	330.00	1,674.62	(1,674.62)	(418.66)
(12) Richards 1-3	7,794.24	381.97	-	230.58	-	314.00	59.02	-	47.04	374.00	1,406.61	6,387.63	1,596.91
(13) Richards 2-1	3,031.68	381.97	-	265.50	-	314.00	59.02	-	47.04	374.00	1,441.53	1,590.15	397.54
(14) War Club 1R	(20,506.72)	-	575.00	85.99	-	235.50	-	-	41.44	-	937.93	(21,444.65)	(5,361.17)
(15) War Club 2	1,229.76	381.97	34.71	-	-	314.00	59.02	81.67	52.66	374.00	1,298.03	(68.27)	(17.07)
(16) Zimmerman	4,545.96	382.02	-	295.85	-	235.50	58.74	-	61.94	374.00	1,408.05	3,137.91	784.48
(17) Totals	\$ 58,110.70	\$6,875.52	\$8,040.05	\$5,185.55	\$1,230.00	\$5,416.50	\$1,062.08	\$ 245.00	\$1,353.60	\$7,362.00	\$37,271.01	\$20,338.98	\$14,538.14
(18) Percent of Total Operating Expense		18.2%	21.3%	13.7%	3.3%	14.3%	2.8%	0.6%	3.6%	19.5%			
(19) Expense Per Barrel Produced		\$1.61	\$1.91	\$1.23	\$0.29	\$1.28	\$0.25	\$0.06	\$0.32	\$1.75			

J/7 3/25/86

GRACE PETROLEUM CORPORATION
POPLAR FIELD, MONTANA
EXPENSE AND PROFIT/(LOSS) ANALYSIS
August 1984

Line No.	(1) Gross Working Interest Revenues Net of Royalty Plus Taxes	(2) Pumpers Plus Foreman Salaries Plus Burdens	(3) Repairs and Materials	(4) Power and Fuel	(5) Well Servicing	(6) Treating and Chemicals	(7) Auto Expense	(8) Saltwater Disposal	(9) Other Including Ad Valorem Tax Plus Insurance	(10) Allocated Overhead Plus Combined Fixed Rate	(11) Total Expenses	(12) Total Working Interest Profit/(Loss)	(13) Grace Share Of Working Interest Profit/(Loss)
(1) Baker-Coulter	-	\$ 372.72	\$ 31.33	\$ 219.92	-	\$ 536.32	\$ 71.97	-	\$ 96.47	\$ 340.00	\$ 1,692.60	\$(1,692.60)	\$(1,184.82)
(2) Buck Elk	\$ 4,275.10	372.72	92.82	510.74	-	-	71.97	-	77.08	465.00	1,614.20	2,660.90	2,660.90
(3) Cowan-Western	5,134.48	372.72	1,054.58	96.49	-	410.72	71.97	-	87.61	374.00	2,491.96	2,642.52	660.63
(4) Cut Hair	9,988.39	372.72	3.10	789.95	-	-	71.97	-	81.51	465.00	1,808.12	8,180.27	8,180.27
(5) EPU-110	-	372.72	-	-	-	-	71.97	\$(1,683.11)	23.87	465.00	(749.55)	749.55	749.55
(6) Goings 1-10	5,290.16	372.72	31.33	202.49	-	536.32	71.97	-	77.88	321.00	1,637.58	3,652.58	913.15
(7) Goings SW Disposal	-	372.72	255.50	-	-	314.00	71.97	-	42.81	374.00	1,454.87	(1,454.87)	(363.72)
(8) Huber (Devonian)	7,612.27	372.72	10.80	-	-	-	71.97	1,119.11	55.52	357.00	2,010.99	5,601.28	3,627.99
(9) Hubar (Madison)	16,601.78	1,118.13	476.74	1,022.99	-	-	215.91	678.75	93.68	1,395.00	5,072.80	11,528.98	11,528.98
(10) Iron Bear	4,614.52	745.41	3,652.48	697.32	\$4,004.00	821.44	143.94	-	168.55	980.00	11,260.37	(6,646.35)	(1,661.59)
(11) Reid 10-1	-	372.72	-	357.13	-	-	71.97	-	69.50	330.00	2,749.06	(2,749.06)	(687.27)
(12) Richards 1-3	3,876.16	372.72	97.33	223.55	-	536.32	71.97	-	78.63	374.00	1,778.39	2,097.77	524.44
(13) Richards 2-1	1,502.52	372.72	97.33	284.32	-	536.32	71.97	-	78.63	374.00	1,839.16	(336.64)	(84.16)
(14) War Club 1R	-	-	31.34	131.98	-	410.72	-	-	84.25	-	658.29	(658.29)	(164.58)
(15) War Club 2	4,725.44	372.72	546.34	449.98	-	536.32	71.97	-	84.25	374.00	2,503.45	2,221.99	555.49
(16) Zimmerman	8,391.24	372.25	31.33	300.70	-	410.72	72.01	-	93.47	374.00	1,678.31	6,712.93	1,678.23
(17) Totals	\$ 72,012.06	\$6,708.43	\$6,412.35	\$5,287.56	\$4,004.00	\$5,049.20	\$1,295.50	\$ 114.75	\$1,269.84	\$7,362.00	\$39,501.10	\$32,510.96	\$26,933.49
(18) Percent of Total Operating Expense		17.0%	16.1%	13.4%	10.0%	12.8%	3.3%	0.3%	8.4%	18.6%			
(19) Expenses Per Barrel Produced		\$1.38	\$1.32	\$1.08	\$.82	\$1.04	\$.27	\$.20	\$.67	\$1.51			

J/2 7/15/87

September 1984

Line No.	(1) Gross Working Interest Revenues Net of Royalty Plus Taxes	(2) Pumpers Plus Foreman Salaries Plus Burdens	(3) Repairs and Materials	(4) Power and Fuel	(5) Well Servicing	(6) Treating and Chemicals	(7) Auto Expense	(8) Saltwater Disposal	(9) Other Including Ad Valorem Tax Plus Insurance	(10) Allocated Overhead Plus Combined Fixed Rate	(11) Total Expenses	(12) Total Working Interest Profit/(Loss)	(13) Grace Share Of Working Interest Profit/(Loss)
(1) Baker-Coulter	\$ 6,432.37	\$ 381.97	-	\$ 205.98	-	\$ 314.00	\$ 59.02	-	\$ 53.66	\$ 340.00	\$ 1,365.85	\$ 5,066.52	\$ 3,546.56
(2) Buck Elk	-	381.97	\$ 50.00	568.60	-	-	59.02	-	34.27	465.00	1,570.08	(1,570.08)	(1,570.08)
(3) Cowan-Western	5,080.40	381.97	2,167.99	150.54	-	235.50	59.02	-	44.80	374.00	3,425.04	1,655.36	413.84
(4) Cut Hair	8,497.90	381.97	-	693.18	-	-	59.02	-	38.70	465.00	1,649.09	6,848.81	6,848.81
(5) EPU-110	-	381.97	50.00	-	-	-	59.02	\$(1,467.92)	11.22	465.00	(500.71)	500.71	500.71
(6) Goings 1-10	10,569.16	381.97	-	226.93	-	314.00	59.02	-	35.07	321.00	1,349.21	9,219.95	2,304.99
(7) Goings SW Disposal	-	381.97	50.00	-	-	2,198.00	59.02	-	11.22	374.00	3,074.21	(3,074.21)	(768.55)
(8) Huber (Devonian)	-	381.97	987.32	-	-	-	59.02	777.72	12.71	357.00	2,586.96	(2,586.96)	(1,675.60)
(9) Hubar (Madison)	15,687.95	1,145.92	3,971.00	1,229.04	\$1,230.00	942.00	177.06	690.20	50.87	1,395.00	10,864.76	4,823.19	4,823.19
(10) Iron Bear	17,908.76	763.94	154.03	891.51	-	-	118.04	163.33	125.74	980.00	3,219.04	14,689.72	3,672.43
(11) Reid 10-1	-	381.97	-	341.85	-	-	59.02	-	50.56	330.00	1,674.62	(1,674.62)	(418.66)
(12) Richards 1-3	7,794.24	381.97	-	250.58	-	314.00	59.02	-	35.82	374.00	1,406.61	6,387.63	1,596.91
(13) Richards 2-1	3,031.68	381.97	-	265.50	-	314.00	59.02	-	35.82	374.00	1,441.53	1,590.15	397.54
(14) War Club 1R	-	-	575.00	85.99	-	235.50	-	-	41.44	-	937.93	(937.93)	(234.49)
(15) War Club 2	7,862.92	381.97	34.71	-	-	314.00	59.02	81.67	41.44	374.00	1,298.03	6,564.89	1,641.22
(16) Zimmerman	8,134.04	382.02	-	295.85	-	235.50	58.74	-	50.66	374.00	1,408.05	6,725.99	1,681.50
(17) Totals	\$ 90,999.42	\$6,875.52	\$8,040.05	\$5,185.55	\$1,230.00	\$5,416.50	\$1,062.08	\$ 245.00	\$ 651.56	\$7,362.00	\$36,770.30	\$54,229.12	\$22,760.32
(18) Percent of Total Operating Expense		18.2%	21.3%	13.7%	3.3%	14.3%	2.8%	0.6%	3.6%	19.5%			
(19) Expenses Per Barrel Produced		\$1.61	\$1.91	\$1.23	\$.29	\$1.28	\$.25	\$.06	\$.32	\$1.75			

J/2 7/15/87

EXHIBIT B

GRACE PETROLEUM CORPORATION
POPLAR FIELD MONTANA
REVENUE ADJUSTMENT DUE TO 1983 WINDFALL PROFITS TAX

AUGUST 1984

	<u>WORKING INTEREST REVENUE LISTED ON ORIGINAL SUBMITTAL (3-25-86)</u>	<u>1983 WPT ADJUSTMENT INCLUDED IN REVENUE</u>	<u>WORKING INTEREST REVENUE CORRECTED FOR 1983 WPT INCLUSION</u>
BAKER-COULTER	1.48	1.48	(0.01)
BUCK ELK	4276.63	1.53	4275.10
COWEN-WESTERN	5245.44	110.96	5134.48
GOINGS #1-10	20171.12	14880.96	5290.16
HUBER-MADISON	16598.63	(3.15)	16601.78
WAR CLUB IR	22271.60	22271.60	0
WAR CLUB #2	6249.64	1524.20	4725.44
ZIMMERMAN	23907.48	15516.24	8391.24
TOTALS	<u>\$98722.02</u>	<u>\$54303.82</u>	<u>\$44418.19</u>

SEPTEMBER 1984

GOINGS #1-10	8408.40	(2160.76)	10569.16
WAR CLUB IR	(20506.72)	(20506.72)	0
WAR CLUB #2	1229.76	(6633.16)	7862.92
ZIMMERMAN	4545.96	(3588.08)	8134.04
TOTALS	<u>\$(6322.60)</u>	<u>\$(32888.72)</u>	<u>26566.12</u>
TWO MONTH TOTAL	\$92399.42	\$21415.10	\$70984.31

GRACE PETROLEUM CORPORATION
WORKING INTEREST OWNERS
AND
PROFIT/LOSS SHARES
POPLAR FIELD, MONTANA
AUGUST AND SEPTEMBER, 1984

	WORKING INTEREST OWNERS	PERCENT WI	TOTAL WORKING INTEREST OWNERS PROFIT/LOSS		WORKING INTEREST OWNERS PROFIT/LOSS SHARE	
			AUGUST	SEPTEMBER	AUGUST	SEPTEMBER
BAKER-COULTER #1	Grace Petroleum Corp.	0.700000	(1692.60)	5066.52	(1184.82)	3546.56
	Century Oil & Gas Corp.	0.300000			(507.78)	1519.96
	Equity Oil Company	0.000000				
	Marsh, Tom	0.000000				
	Mayfield Company	0.000000				
	Venable, Robert	0.000000				
	Venable, Robert, Trust	0.000000				
					<u>\$ (1692.60)</u>	<u>\$ 5056.52</u>
BUCK ELK	Grace Petroleum Corp.	1.000000	2660.90	(1570.08)	2660.90	(1570.08)
COWAN-WESTERN	Grace Petroleum Corp.	0.250000	2642.52	1655.36	660.63	413.84
	Century Oil & Gas Corp.	0.250000			660.63	413.84
	Equity Oil Company	0.250000			660.63	413.84
	Marsh, Tom F., Inc.	0.125000			330.31	206.92
	Venable, Robert A.	0.062500			165.16	103.46
	Venable, Robert A., Trust	0.062500			165.16	103.46
					<u>\$ 2642.52</u>	<u>\$ 1655.36</u>
CUT-HAIR	Grace Petroleum Corp.	1.000000	8180.27	6848.81	8180.27	6848.81
GOINGS #1-10	Grace Petroleum Corp.	0.250000	3652.58	9219.95	913.15	2304.99
	Century Oil & Gas Corp.	0.250000			913.15	2304.99
	Equity Oil Company	0.250000			913.15	2304.99
	Marsh, Tom F., Inc.	0.125000			456.57	1152.48
	Venable, Robert A.	0.062500			228.28	576.25
	Venable, Robert A., Trust	0.062500			228.28	576.25
					<u>\$ 3652.58</u>	<u>\$ 9219.95</u>
HUBER (DEVONIAN)	Grace Petroleum Corp.	0.647708	5601.28	(2586.96)	3627.99	(1675.60)
	Geolinear Company	0.025000			140.03	64.67
	Grimes, Walter R.	0.219792			1231.12	568.59
	Ladd Petroleum Corp.	0.062500			350.09	161.69
	Low, D. J.	0.010000			56.01	25.87
	Polumbus, J. Anthony	0.010000			56.01	25.87
	J. A. Tertaling & Sons Co.	0.025000			140.03	64.67
					<u>\$ 5601.28</u>	<u>\$ (2586.96)</u>
HUBER (MADISON)	Grace Petroleum Corp.	1.000000	11528.98	4823.98	11528.98	4823.19
IRON BEAR (#1,2,3)	Grace Petroleum Corp.	0.250000	(6646.35)	14689.72	(1661.59)	3672.43
	Century Oil & Gas Corp.	0.250000			(1661.59)	3672.43
	Equity Oil Company	0.250000			(1661.59)	3672.43
	Marsh, Tom F., Inc.	0.125000			(830.78)	1836.21
	Mayfield Company	0.000000			-0-	
	Venable, Robert A.	0.062500			(415.40)	918.11
	Venable, Robert A., Trust	0.062500			(415.40)	918.11
					<u>\$ (6646.35)</u>	<u>\$ 14689.72</u>
REID #10-1	Grace Petroleum Corp.	0.250000	(2749.06)	(1674.62)	(687.27)	(418.66)
	Century Oil & Gas Corp.	0.250000			(687.27)	(418.66)
	Equity Oil Company	0.250000			(687.27)	(418.66)
	Marsh, Tom F., Inc.	0.125000			(343.63)	(209.32)
	Venable, Robert A.	0.062500			(171.81)	(104.66)
	Venable, Robert A., Trust	0.062500			(171.81)	(104.66)
					<u>\$ (2749.06)</u>	<u>\$ (1674.62)</u>
RICHARDS #1-3	Grace Petroleum Corp.	0.250000	2097.77	6387.63	524.44	1596.91
	Century Oil & Gas Corp.	0.250000			524.44	1596.91
	Equity Oil Company	0.250000			524.44	1596.91
	Marsh, Tom F., Inc.	0.125000			262.23	798.44
	Venable, Robert A.	0.062500			131.11	399.23
	Venable, Robert A., Trust	0.062500			131.11	399.23
					<u>\$ 2097.77</u>	<u>\$ 6387.63</u>
RICHARDS #2-1	Grace Petroleum Corp.	0.250000	(336.64)	1590.15	(84.16)	397.54
	Century Oil & Gas Corp.	0.250000			(84.16)	397.54
	Equity Oil Company	0.250000			(84.16)	397.54
	Marsh, Tom F., Inc.	0.125000			42.08	198.77
	Venable, Robert A.	0.062500			21.04	99.38
	Venable, Robert A., Trust	0.062500			21.04	99.38
					<u>\$ (336.64)</u>	<u>\$ 1590.15</u>
WAR CLUB IR	Grace Petroleum Corp.	0.250000	(658.29)	(937.93)	(164.58)	(234.49)
	Century Oil & Gas Corp.	0.250000			(164.58)	(234.49)
	Equity Oil Company	0.250000			(164.58)	(234.49)
	Marsh, Tom F., Inc.	0.125000			82.27	117.22
	Venable, Robert A.	0.062500			41.14	58.62
	Venable, Robert A., Trust	0.062500			41.14	58.62
					<u>(658.29)</u>	<u>(937.93)</u>
WAR CLUB #2	Grace Petroleum Corp.	0.250000	2221.99	6564.89	555.49	1641.22
	Century Oil & Gas Corp.	0.250000			555.49	1641.22
	Equity Oil Company	0.250000			555.49	1641.22
	Marsh, Tom F., Inc.	0.125000			277.76	820.61
	Venable, Robert A.	0.062500			138.88	410.31
	Venable, Robert A., Trust	0.062500			138.88	410.31
					<u>\$ 2221.99</u>	<u>\$ 6564.89</u>
ZIMMERMAN	Grace Petroleum Corp.	0.250000	6712.93	6725.99	1678.23	1681.50
	Century Oil & Gas Corp.	0.250000			1678.23	1681.50
	Equity Oil Company	0.250000			1678.23	1681.50
	Marsh, Tom F., Inc.	0.125000			839.12	840.75
	Venable, Robert A.	0.062500			419.56	420.37
	Venable, Robert A., Trust	0.062500			419.56	420.37
					<u>\$ 6712.93</u>	<u>\$ 6725.99</u>

7/9/87

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION PATRICIA A. McQUIRE

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UNITED STATES OF AMERICA,
Plaintiff,

vs.

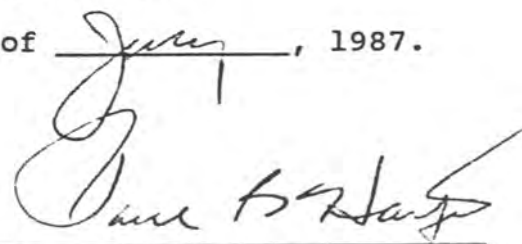
GRACE PETROLEUM CORPORATION,
Defendant.

) No. CV-86-003-GF-PGH
)
) ORDER EXTENDING TIME TO
) FILE REPLY BRIEF TO
) DEFENDANT'S OPPOSITION
) TO CROSS MOTION FOR
) SUMMARY JUDGMENT

Pursuant to the motion of the United States of America,
and the attached affidavit of counsel showing good cause, the
United States' motion for an extension of time within which to
file a reply brief to the defendant's opposition to the cross-
motion for summary judgment is hereby granted; and it is further

ORDERED, that the parties file a report with this court
on or before July 31, 1987, indicating the status of the
tentative settlement between the parties.

Dated this 9 day of July, 1987.


United States District Judge

40-541-2383

DEPARTMENT OF JUSTICE		R E C O R D
LANDS		
LANDS DIVISION		
POLLUTION/ENFORCEMENT		



DTB:BGD:rab
90-5-1-1-2383

FILE

Washington, D.C. 20530

July 10, 1987

Jack Ramirez, Esquire
Crowley, Haughey, Hanson,
Toole & Dietrich
500 Transwestern Plaza II
490 North 31st Street
Billings, Montana 59103-2529

Re: United States v. Grace Petroleum Corp.

Dear Jack:

This will confirm our conversation that the United States is willing to accept the offer of Grace Petroleum Corporation to settle the above-captioned case for Grace's profit/economic benefit. Of course, as I have explained to you by telephone, EPA needs to verify documentation regarding this issue. As I also explained, EPA would also like to know the royalty holders to whom the remaining profits were sent.

EPA has suggested that it would like to begin the drafting and approval process of the appropriate pleading to dispose of this case while awaiting such documentation. Thus, it would be helpful if you could work on a draft in that regard in order to incorporate what would be necessary therein from your client's perspective. Even if you have not been able to accumulate the necessary records, EPA is willing to begin the approval process based on the assertions made by you and Mr. McMillan at the settlement conference in June.

Thank you for your attention to this matter. I am pleased that we have been able to reach this point in the case.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:

Brian G. Donohue
Attorney
Environmental Enforcement Section

cc: Al Smith
Alan Morrissey

90-5-1-1-2383
Sec 4

60-91-453

10-18-11-3-5

